

University of Houston Law Center
PROPERTY LAW
- Spring 2022 -

Professor Contact Information

Instructor: Gina S. Warren
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Office Phone: 713-743-8404

Class Schedule and Location: Class is scheduled for face-to-face learning on Tuesday and Thursday mornings from 10:30am-11:50pm; and Wednesday afternoons from 1-2:20pm. Each class session will be 80 minutes. The classroom is TBD.

Office Hours: I am available to meet with students regularly and my office hours are Wednesdays from Wednesdays from noon – 1pm. If this time does not work for your schedule, email me to schedule an appointment. You should feel free to call or e-mail me with any questions, concerns, or comments, or to schedule an appointment.

Teaching Assistants: We will have four teaching assistants this semester. Their contact information is as follows:

Robert Clary
Rfclary@cougarnet.uh.edu
432-215-6856

To Nhu Huynh
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281-277-6777

Shannon Wright
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Required Reading Material: SINGER ET. AL, PROPERTY LAW: RULES, POLICIES & PRACTICES (Aspen, 7th ed. 2017) (multiple formats are available to purchase or rent).

TEAMS: I will post slides and course materials on TEAMS, which is available through your Courgarnet login. Make sure to check the website regularly.

Learning Outcomes: I have three goals for this course. First, the course will teach you fundamental property law, its rules and doctrines. Second, the class will seek to help you understand the role of property law as an institution that has been instrumental in shaping the legal history, culture, citizenship and notions of justice and rights in the United States. You will do this by studying various laws, theories and policies that have existed historically as well as in their current state. These activities will aid you in understanding and allow you to critique the jurisprudence of property law. Third, the course will assist you in developing your basic lawyering skills. This includes the ability to spot the issue, state a rule, and draw conclusions and examine its application in other cases and contexts.

Course Attendance and Participation: Consistent with university policy, 80 percent attendance in class is required. An attendance list will be circulated at each class session. Those individuals not satisfying the attendance requirement will be reported to UH Law Center administrative officials to be dropped from the course. During class, students will be called on at random (Socratic method) to answer questions about the reading. Students will be expected to have read the assigned readings prior to class and to be prepared to discuss the material in class.

Grade and Assessment Methods: Your final grade will be based upon a take-home, open book examination given at the end of the semester, consisting of a combination of essay and short answer questions. Grades may be adjusted upwards by one-third for exceptionally strong in-class participation.

Practice Problems: You will have three opportunities throughout the semester to prepare answers to practice problems and to receive feedback on those assignments. While you have the opportunity to complete all three practice problems, **you must complete at least two (2) assignments throughout the semester.** A failure to complete two (2) assignments will result in an “F” in this course (so don’t do that!). Your practice problems must be complete and must signify a “good faith effort.” A practice problem that is incomplete or shows a lack of a good faith effort will not be accepted toward the two required assignments. Each of the practice problems will have a set due date, announced at least two weeks prior. Late assignments will not be accepted. As such, if you choose to complete a particular assignment, you must hand it in on time. (Note, however, that the schedule is subject to change so make sure you stay apprised of our progress throughout the semester.)

Use of Laptops: You may use a laptop for taking notes and other purposes directly related to the class. Use of your laptop for any other purpose is prohibited during class meetings (e.g., you may NOT surf the internet, play games or give/receive answers or other aid via any method). Nonparticipation and nonresponsiveness in the classroom discussion attributable to diversionary uses of your personal computer constitutes an absence from the class. In the event this occurs, you are not eligible to sign the attendance sheet and are subject to appropriate action as the professor may determine in her sole discretion.

Counseling and psychological services: Counseling and Psychological Services (CAPS) can help students who are having difficulties managing stress, adjusting to the demands of a professional program, or feeling sad and hopeless. You can reach CAPS (www.uh.edu/caps) by calling 713-743-5454 during and after business hours for routine appointments or if you or someone you know is in crisis. No appointment is necessary for the “Let’s Talk” program, a drop-in consultation service at convenient locations and hours around campus. http://www.uh.edu/caps/outreach/lets_talk.html.

Sexual Misconduct and Antidiscrimination Policies: The University is committed to maintaining and strengthening an educational, working and living environment where students,

faculty, staff, and visitors are free from discrimination and sexual misconduct. If you have experienced an incident of discrimination or sexual misconduct, there is a confidential reporting process available to you. For more information, please refer to the University system’s Anti-Discrimination Policy SAM 01.D.07 and Sexual Misconduct Policy SAM 01.D.08, available here: <http://www.uhsystem.edu/compliance-ethics/uhs-policies/sams/01-general-information/index.php>; http://www.uhsystem.edu/compliance-ethics/_docs/sam/01/1d7.pdf (antidiscrimination); http://www.uhsystem.edu/compliance-ethics/_docs/sam/01/1d8.pdf (sexual misconduct). Please be aware that under the sexual misconduct policy, SAM 01.D.08, faculty are required to report to the University any information received regarding sexual misconduct as defined in the policy. Please note that the reporting obligations under the sexual misconduct policy reach to employees and students. Also, as a required reporting party, Law Center employees and faculty members are not a confidential resource.

Reading Assignments: What follows is an anticipated reading schedule by topic block. The reading assignments average out to 25 pages of reading per class. Given that this the average, some days we will cover a bit more than 25 pages and some days we will cover a bit less. It is your responsibility to keep up with where we are in the reading and to make sure you are prepared for each class. **Disclaimer: The following is only the tentative schedule. Please anticipate that I will change and/or adjust the reading assignments throughout the semester.**

Tentative Reading Schedule

	Topic	Readings
01.18	Introduction: A Guide to the Book	xxxiii – xlvi
Property in a Free and Democratic Society		
01.19	Trespass; defenses of consent & public policy (22 pages)	Text, 3-4 <i>State v. Shack</i> , 4-9 <i>Commonwealth v. Magadini</i> , 9-14 Notes and Questions, 14-23 Problems, 23-24
01.20	Public accommodations; trespass remedies (18 pages)	<i>Uston v. Resorts International</i> , 25-28 Notes and Questions, 28-33 Problems, 33 Text 34 <i>Glavin v. Eckman</i> , 34-38

	Topic	Readings
		<i>Jacque v. Steenberg Homes, Inc.</i> , 38-41 Notes and Questions, 41-42
01.25	Public accommodation laws (24 pages)	Text, 42-44 <i>Civil Rights Act of 1964, Title II</i> , 44 <i>Civil Rights Act of 1866</i> , 45 Notes and Questions, 45-50 Problems, 50-51 <i>New York Executive Law, art. 15</i> , 51-52 Notes and Questions, 52-55 Problems, 56 Text, 56-57 <i>Americans with Disabilities Act</i> , 57-61 Problems, 61-65
01.26	Possession (21 pages)	Text, 134-135 <i>Pierson v. Post</i> , 136-139 Notes and Questions, 139-141 Problems, 141 <i>Popov v. Hayashi</i> , 142-145 Notes and Questions, 145-146 <i>Elliff v. Texon Drilling Co.</i> , 146-150 Notes and Questions, 150 Problems, 150-151 <i>Willcox v. Stroup</i> , 151-155
01.27	Relativity of Title (12 pages)	Text, 155 <i>Armory v Delamirie</i> , 156 Notes and Questions, 156-158 <i>Charrier v. Bell</i> , 158-162 Notes and Questions, 162-163 <i>Christy v. Scott</i> , 163-165 Notes and Questions, 165 Problems, 165-166 Text, 166-167 Problem, 167

	Topic	Readings
Relations Among Neighbors		
02.01	Nuisance (30 pages)	Text 337-339 <i>Dobbs v. Wiggins</i> , 340-346 Notes and Questions, 349-355 Problems, 355-357 Text, 357-358 <i>Boomer v. Atlantic Cement</i> , 358-361 Notes and Questions, 361-363 <i>Johnson v. Paynesville Farmers Union Cooperative Oil Co.</i> , 363-369 Notes and Questions, 369-370
02.02	Nuisance – Light, Water & Air (18 pages)	<i>Fontainebleau Hotel Corp. v. Forty-Five Twenty-Five, Inc.</i> , 370-373 <i>Prah v. Maretti</i> , 373-379 Notes and Questions, 379-380 <i>Armstrong v. Francis Corp</i> , 392-396 Notes and Questions, 396-398 Text, 398-403 Problem, 403
02.03	Lateral & subjacent support (common law; building codes) (20 pages)	Text, 403–404 <i>Noone v. Price</i> , 404–408 Notes and Questions, 408–411 <i>Massachusetts State Building Code</i> , 411 <i>International Building Code §3307</i> , 411 Notes and Questions, 411–412 Problem, 412 <i>Friendswood Development Co. v. Smith-Southwest Industries, Inc.</i> , 412–419 Notes and Questions, 419–422 Problem, 422
02.08	Adverse possession; Prescriptive easements (23 pages)	Text, 287 <i>Brown v. Gobble</i> , 287–293 Notes and Questions, 293–299

	Topic	Readings
		Text, 299 <i>Romero v. Garcia</i> , 300–302 Notes and Questions, 302–303 <i>Nome 2000 v. Fagerstrom</i> , 303–309 Notes and Questions, 309–310
02.09	Prescriptive Easements & Improving Trespasser (15 pages)	Text, 315 <i>Community Feed Store, Inc. v. Northeastern Culvert Corp.</i> , 315–319 Notes and Questions, 319–321 Problems, 321–322 Text, 322–325 <i>Somerville v. Jacobs</i> , 325–329 Notes and Questions, 329 Problem, 329–330
02.10	Land use restrictions (servitudes) Express easements (25 pages)	Text, 513–517 <i>California Statute of Frauds</i> , 517–518 <i>New York Statute of Frauds</i> , 518 Text, 518–520 <i>Green v. Lupo</i> , 520–522 Notes and Questions, 522–524 Problem, 524 <i>Cox v. Glenbrook Co.</i> , 524–529 <i>Henley v. Continental Cablevision of St. Louis County, Inc.</i> , 529–531 Notes and Questions, 531–536 Problems, 536
02.15	Implied easements (24 pages)	Text, 536–537 <i>Lobato v. Taylor</i> , 537–544 Notes and Questions, 544–547 Problem, 547 <i>Granite Properties Ltd. Partnership v. Manns</i> , 547–553 Notes and Questions, 553–554 <i>Finn v. Williams</i> , 554–555 Notes and Questions, 556–558

	Topic	Readings
		Problems, 558–559 Text, 559
02.16 Practice Problem No. 1 Due Friday, February 18 by 11:59pm	Restrictive covenants; equitable servitudes (31 pages)	Text, 559–562 <i>Neponsit Property Owners' Ass'n v. Emigrant Industrial Savings Bank</i> , 563–566 Notes and Questions, 566–575 Problems, 575–577 Text, 577–581 <i>Evans v. Pollock</i> , 581–584 <i>Sanborn v. McLean</i> , 584–585 <i>Riley v. Bear Creek Planning Committee</i> , 585–586 Notes and Questions, 586–588 Problems, 589
Ownership in Common		
02.17	Homeowners Association & Reasonableness review of covenants & By-Laws (26 pages)	Text, 589–591 Text, 592–594 <i>Appel v. Presley Cos.</i> , 594–597 Notes and Questions, 597–599 Problems, 599–601 <i>Nahrstedt v. Lakeside Village Condominium Ass'n</i> , 607–613 Notes and Questions, 613–615 Problems, 615–616 <i>O'Buck v. Cottonwood Village Condominium Assoc., Inc.</i> , 617–620 Notes and Questions, 623–624
02.22	Public policy & changed conditions (6 pages)	<i>El Di, Inc. v. Town of Bethany Beach</i> , 650–654 Notes and Questions, 654–656

	Topic	Readings
02.23	Concurrent ownership (21 pages)	Text, 665–670 Problems, 670–671 Text, 672–673 Problems, 673 <i>Carr v. Deking</i> , 678–679 <i>Tenhet v. Boswell</i> , 679–682 Notes and Questions, 682–684 <i>Ark Land Co. v. Harper</i> , 691–695 Notes and Questions, 695–697
02.24	Present Estates and Future Interests (8 pages)	Text, 747–755 Problems, 755
03.01	Ambiguous Deeds, Waste & Review (13 pages)	Wood v. Board of County Commissioners of Fremont County, 756–758 <i>Edwards v. Bradley</i> , 758–760 Notes and Questions, 760–763 Text, 763–764 <i>McIntyre v. Scarbrough</i> , 764–766 Notes and Questions, 766–769
03.02	Rule against perpetuities (12 pages)	Text, 783–795
03.03	Leaseholds: consent to sublease clause; duty to mitigate damages (19 pages)	Text, 813–817 Text, 829–830 Text, 835–836 Problem, 836 Text, 837–839 <i>Kendall v. Ernest Pestana, Inc.</i> , 839–844 <i>Slavin v. Rent Control Board of Brookline</i> , 844–846 Notes and Questions, 846–848 Problems, 848–849

	Topic	Readings
03.08	Leaseholds, Cont. (15 pages)	Text, 849–851 Problem, 851 Text, 851–856 <i>Sommer v. Kridel</i> , 856–860 Notes and Questions, 860–863 Problems, 863–864 Text, 864
03.09	Constructive eviction; implied warranty of habitability (27 pages)	<i>Minjak Co. v. Randolph</i> , 865–867 <i>3000 B.C. v. Bowman Properties, Ltd.</i> , 868–869 Notes and Questions, 869–872 Problems, 872–873 Text, 873–874 <i>Javins v. First National Realty Corp.</i> , 874–880 Notes and Questions, 880–889 Problems, 889–891
03.10 Practice Problem No. 2 due Friday, March 11 by 11:50pm	<i>Finish up – no new reading</i>	
03.14 – 03.19	Spring Break	No Classes
The Legal Framework of the Market for Real Estate		
03.22	Purchase and Sale Agreements: Form, Formalities, and Remedies (27 pages)	Text, 921-926 <i>Burns v. McCormick</i> , 927-929 <i>Hickey v. Green</i> , 929-931

	Topic	Readings
		Notes and Questions, 932-936 <i>Johnson v Davis</i> , 936-940 Notes and Questions, 940-946 Problem, 946-947 Text, 947-950
03.23	Deeds; The Recording System (9 pages)	Text, 950-956 Text, 995-996 Text, 998-1000
Constitutional Protection for Property		
03.24	Discriminatory treatment (race) (24 pages)	Text, 1017–1018 <i>Fair Housing Act of 1968</i> , 1018–1024 <i>Asbury v. Brougham</i> , 1032–1036 Notes and Questions, 1036–1041 Problem, 1041 <i>MHANY Mgmt. v. County of Nassau</i> , 1041–1048 Notes and Questions, 1048–1049 Problems, 1049–1050
03.29	Discriminatory treatment (sex; familial status; sexual orientation) (25 pages)	<i>Quigley v. Winter</i> , 1050–1055 Notes and Questions, 1055–1057 Problems, 1057 <i>Human Rights Comm’n v. LaBrie, Inc.</i> , 1058–1062 Notes and Questions, 1062–1063 Problems, 1063-1064 <i>State ex rel. Sprague v. City of Madison</i> , 1064-1066 Notes and Questions, 1066-1069 <i>DiLiddo v. Oxford Street Realty</i> , 1069-1072 Notes and Questions, 1072-1073

	Topic	Readings
		Text, 1073–1075
03.30	Discriminatory impact/effect (9 pages)	<i>HUD's Discriminatory Effects Rule</i> , 1075–1076 Notes & Questions, 1076–1079 Problems, 1079–1080 <i>MHANY Mgmt. v. County of Nassau</i> , 1080–1082 Notes and Questions, 1082–1083 Problems, 1083–1084
03.31	Zoning (prior nonconforming uses; vested rights; variances exclusions) (23 pages)	Text, 423–424 <i>Village of Euclid v. Ambler Realty Co.</i> , 424–430 Notes and Questions, 430–433 Text, 433–436 <i>Town of Belleville v. Parrillo's, Inc.</i> , 436–439 Notes and Questions, 439–441 <i>Stone v. City of Wilton</i> , 441–443 Notes and Questions, 443–444 Problems, 444–446
04.05	Zoning (prior nonconforming uses; vested rights; variances exclusions) (21 pages)	Text 454–455 <i>Krummenacher v. Minnetonka</i> , 455–459 Notes and Questions, 459–461 Text 461–462 <i>South Burlington County NAACP v. Township of Mount Laurel</i> , 463–470 Notes and Questions, 471–475
04.06	Constitutional Protection for Property Equal Protection and Due Process (22 pages)	Text, 1109–1110 <i>Miller v. Schoene</i> , 1111–1112 Notes and Questions, 1112–1113 Text, 1113

	Topic	Readings
		Village of Willowbrook v. Olech, 1114-1115 Notes and Questions, 1115 Problem, 1115-1116 Text 1116-1117 <i>Bonner v. City of Brighton</i> , 1117-1127 Notes and Questions, 1127-1131 Problem, 1131
04.07	Takings Law – Part I (26 pages)	Text, 1149-1150 <i>Kelo v. City of New London</i> , 1150-1165 Notes and Questions, 1165-1169 Problems, 1169 Text, 1170-1175 Problem, 1175
04.12	Takings Law – Part II (21 pages)	Text, 1183 <i>Pennsylvania Coal Co. v. Mahon</i> , 1184–1187 Notes and Questions, 1187–1189 Text, 1189–1191 <i>Penn Central Transp. Co. v. New York City</i> , 1192–1200 Notes and Questions, 1200–1203 Problems, 1203–1204
04.13	Takings Law – Part III (35 pages)	<i>Loretto v. Teleprompter Manhattan CATV Corp.</i> , 1212-1217 Notes and Questions, 1217-1222 Problems, 1222-1223 <i>Lucas v South Carolina Coastal Council</i> , 1223-1237 <i>Palazzolo v. Rhode Island</i> , 1237-1240 <i>Tahoe-Sierra Preservation Council, Inc. v. Tahoe Regional Planning Agency</i> , 1241-1242 Notes and Questions, 1242-1246 Problems, 1247

	Topic	Readings
04.14 Practice Problem No. 3 Due Thursday, April 13 at 11:59pm	Takings Law – finish up	<i>No new reading</i>
04.19	Final Review	
04.20 – 04.28	No classes unless we need to schedule a makeup class	
05.03 – 05.12	Final Examination Period	<i>Can take the final exam any 24 hours within the final exam period</i>

UNIVERSITY OF HOUSTON SYLLABUS ADDENDUM:

Required Language for Courses with a Face-to Face Component

Face Covering Policy

To reduce the spread of COVID-19, the University strongly encourages everyone (vaccinated or not) to wear face coverings indoors on campus including classrooms for both faculty and students.

Presence in Class

Your presence in class each session means that you:

- Are NOT exhibiting any Coronavirus Symptoms that makes you think that you may have COVID-19
- Have NOT tested positive or been diagnosed for COVID-19
- Have NOT knowingly been exposed to someone with COVID-19 or suspected/presumed COVID-19

If you are experiencing any COVID-19 symptoms that are not clearly related to a pre-existing medical condition, do not come to class. Please see [Student Protocols](#) for what to do if you experience symptoms and [Potential Exposure to Coronavirus](#) for what to do if you have potentially been exposed to COVID-19. Consult the (select: [Undergraduate Excused Absence Policy](#) or [Graduate Excused Absence Policy](#)) for information regarding excused absences due to medical reasons.

COVID-19 Information

Students are encouraged to visit the University's [COVID-19](#) website for important information including on-campus testing, vaccines, diagnosis and symptom protocols, campus cleaning and safety practices, report forms, and positive cases on campus. Please check the website throughout the semester for updates.

Vaccinations

Data suggests that vaccination remains the best intervention for reliable protection against COVID-19. Students are asked to familiarize themselves with pertinent [vaccine information](#), consult with their health care provider. The University strongly encourages all students, faculty and staff to be vaccinated.

Reasonable Academic Adjustments/Auxiliary Aids

The University of Houston complies with Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990, pertaining to the provision of reasonable academic adjustments/auxiliary aids for disabled students. In accordance with Section 504 and ADA guidelines, UH strives to provide reasonable academic adjustments/auxiliary aids to students who request and require them. If you believe that you have a disability requiring an academic adjustments/auxiliary aid, please contact [the Justin Dart Jr. Student Accessibility Center](#) (formerly the Justin Dart, Jr. Center for Students with DisABILITIES).

Excused Absence Policy

Regular class attendance, participation, and engagement in coursework are important contributors to student success. Absences may be excused as provided in the University of Houston [Undergraduate Excused Absence Policy](#) and [Graduate Excused Absence Policy](#) for reasons including: medical illness of student or close relative, death of a close family member, legal or government proceeding that a student is obligated to attend, recognized professional and educational activities where the student is presenting, and University-sponsored activity or athletic competition. Under these policies, students with excused absences will be provided with an opportunity to make up any quiz, exam or other work that contributes to the course grade or a satisfactory alternative. Please read the full policy for details regarding reasons for excused absences, the approval process, and extended absences. Additional policies address absences related to [military service](#), [religious holy days](#), [pregnancy and related conditions](#), and [disability](#).

Recording of Class

Students may not record all or part of class, livestream all or part of class, or make/distribute screen captures, without advanced written consent of the instructor. If you have or think you may

have a disability such that you need to record class-related activities, please contact the [Justin Dart, Jr. Student Accessibility Center](#). If you have an accommodation to record class-related activities, those recordings may not be shared with any other student, whether in this course or not, or with any other person or on any other platform. Classes may be recorded by the instructor. Students may use instructor's recordings for their own studying and notetaking. Instructor's recordings are not authorized to be shared with *anyone* without the prior written approval of the instructor. Failure to comply with requirements regarding recordings will result in a disciplinary referral to the Dean of Students Office and may result in disciplinary action.

Syllabus Changes

Due to the changing nature of the COVID-19 pandemic, please note that the instructor may need to make modifications to the course syllabus and may do so at any time. Notice of such changes will be announced as quickly as possible through (*specify how students will be notified of changes*).

Resources for Online Learning

The University of Houston is committed to student success, and provides information to optimize the online learning experience through our [Power-On](#) website. Please visit this website for a comprehensive set of resources, tools, and tips including: obtaining access to the internet, AccessUH, and Blackboard; requesting a laptop through the Laptop Loaner Program; using your smartphone as a webcam; and downloading Microsoft Office 365 at no cost. For questions or assistance contact UHOnline@uh.edu.

UH Email

Please check and use your Cougarnet email for communications related to this course. To access this email, [login](#) to your Microsoft 365 account with your Cougarnet credentials.

Webcams

Access to a webcam is required for students participating remotely in this course. Webcams must be turned on (*state when webcams are required to be on and the academic basis for requiring them to be on*). (Example: *Webcams must be turned on during exams to ensure the academic integrity of exam administration.*)

Honor Code Statement

Students may be asked to sign an honor code statement as part of their submission of any graded work including but not limited to projects, quizzes, and exams: "*I understand and agree to abide by the provisions in the (select: [University of Houston Undergraduate Academic Honesty Policy](#), [University of Houston Graduate Academic Honesty Policy](#)). I understand that academic honesty is taken very seriously and, in the cases of violations, penalties may include suspension or expulsion from the University of Houston.*"

Helpful Information

Coogs Care: <https://www.uh.edu/dsaes/coogscare/>

Laptop Checkout Requests: <https://www.uh.edu/infotech/about/planning/off-campus/index.php#do-you-need-a-laptop>

Student Health Center: <https://www.uh.edu/healthcenter/>