

PROPERTY • LAW203 (Sec. 001)

M/Tu/W 1000am–1110am ▪ Law Building Room 110

Prof. Narechania ▪ 689 Simon ▪ OH: M 200pm–330pm

COURSE DESCRIPTION

Property is a core legal and social institution: Its definition poses fundamental questions about efficiency, fairness, wealth distribution, and the tension between public and private rights. What can be owned? What does it mean to own or transfer property? How may the government permissibly regulate or take property? Though American property law has developed answers to these questions mainly in disputes over land, these questions take on new significance in the contexts of artistic and innovative creation, bodily integrity, the Internet, and even space. This course examines property law and theory through the prism of these old and new resource conflicts.

Note: This course is designed primarily for first-year students. We will focus not only on the doctrines and policies of property law, but also on themes that are central to the study of law more generally—themes that may seem obvious or redundant to students with more law school experience.

LEARNING OUTCOMES

You will be expected to:

- gain knowledge and understanding of substantive property law;
- engage in legal analysis, problem-solving, and reasoning;
- communicate—in writing and orally—key property law concepts; and
- use the law to solve real-world problems and to create a more just society.

In particular, you will be expected to:

- identify and analyze justifications for first (and subsequent) possessions of property;
- understand the rules-based system of possessory estates and future interests in land, and author conveyances to correctly create such estates and interests;
- analyze complex legal problems in property law, including adverse possession and takings;
- understand land use controls, including servitudes, nuisance regulation, among others;
- evaluate existing and proposed levers in property law to address issues of fairness, discrimination, and distribution.

COURSE MATERIALS

We will use the following required texts and materials in this course:

- DUKEMINIER, et al., *PROPERTY* (11th ed. 2026) [**P**];
- Narechania, *Property: Statutory Supplement* [**PSS**];
- ELLICKSON, et al., *PERSPECTIVES ON PROPERTY LAW* (4th ed. 2014) [**PPL**]; and
- other supplemental materials, such as news articles, as are posted to bCourses [**bC**].

As elaborated below, the final exam will be open-book—but limited to printed materials only. Please keep this in mind as you acquire these course materials.

COURSE SCHEDULE

We will meet on Monday, Tuesday, and Wednesday mornings, from 1000am to 1100am, in 110 Law Building or, if virtual, in Zoom Meeting Room: **tnarecha** (password: **b3rk313y**).

Below is a tentative schedule for the course. For the first class, please come prepared to discuss Topic 1. Each topic is roughly congruent with one class session, though I may make adjustments over the semester. Hence, dates, assignments, and readings are subject to change. Please check bCourses regularly to ensure that you have the most current schedule and information (though I will typically announce any updates or changes to the syllabus). You should generally prepare one full syllabus assignment past the end of our previous class.

I have also scheduled three advance make-up classes: We will have class on Friday, August 28, Friday, September 11, and Friday, October 23 from 230pm–340pm in Room 110 (our regular room). I have found that preemptively scheduling these additional sessions (which will be recorded) helps to mitigate the end-of-semester crunch. Ideally, these changes will help us to end class before the week of the Thanksgiving break. At worst, these changes will help mitigate issues that arise out of any unexpected circumstances we encounter during the semester (e.g., sickness, or emergency-related closures).

We will hold our law-school-mandated review session on Tuesday, December 1, at 1000am, in Room 110.

Fundamentals

First Possession

1. Acquisition by Discovery
P 1–17 (skip 14–16 note 5); bC: Syllabus

Note: *Johnson v. M'Intosh* is a difficult case, and may be especially difficult for some students both for its ultimate holding and for its disgraceful descriptions of indigenous peoples.

2. Acquisition by Capture
P 17–37 (skip 21 note 1, 27–31 notes 3–6, 33–34 note 3, 34–36 note 1), 37–39 notes 1(a) and 1(c), 40–41 note 4 (replace the last word, “case,” with “statute”); PSS 2; PPL 157–163 (through note 2); bC: Melville, *MOBY DICK* (Chapter 89: Fast-Fish and Loose-Fish only)

Optional: P 47 (Review Problem 3).

3. Introduction to Theories Justifying Private Property
P 27–31 notes 3–6, 33–34 note 3; PPL 112–113, 116–119, 121–127; bC: Coase Theorem Summary; Knee Defender Materials
4. Acquisition by Creation
P 113–126 (through note 1, skip 118–119 note 1 and 120–121 note 4); PPL 36–41, 41–42 (notes 3 and 6 only); bC: Chicago ‘Dibs’ Materials
5. Acquisition by Creation (Part II)
P 140, 145 note 3; bC: *Mayo Medical Labs. v. Prometheus Labs, Inc.* (Syllabus and Introduction only); PSS 3; PPL 131–133, 135–137, 139 note 6, 419–427 (through note 2), 429 note 8
6. Property in the Self
P 145–155 (skip 154 note 3), 168–169 notes 1–2, 5; PSS 4; bC: *Carson v. Here's Johnny Portable Toilets* (edited); PPL 284–290, 290–291 (note 4 only)
7. Property as a Bundle of Rights
P 188–193, 205–213, 214 note 3; bC: *Cedar Point Nursery v. Hassid* (edited Syllabus)

8. Property as a Bundle of Rights (Part II)
P 214–229 (skip 221 notes 5–6); bC: *Kingsbury Dilemma*, St. Louis Post-Dispatch (June 1973); *The Heist*, Radiolab Presents: More Perfect (Oct. 2017) (audio excerpt)

Optional: P 236 (Review Problem 3).

Subsequent Possession

9. Acquisition by Find
P 49–63 (through note 6, skip 60–62 notes 3–4); PSS 5–6
10. Adverse Possession
P 64–83 (skip 82 notes 3–4); PSS 7–8
11. Adverse Possession (Part II)
P 83–97 (skip 90 problem 4), 98–99

Optional: P 112 (Review Problem 2).

12. Acquisition by Gift
P 99–101, 105–111 (through note 2, skip 106 notes 1–2), 129 note 1; PSS 9

Estates

Possessory Estates and Future Interests

13. The Estate System and the Fee Simple
P 237, 239, 242–245 (skip 243 problem 2); PPL 329–339 (skip 338–339 notes 3, 7–8); bC: *Steele v. Commissioner* (Introduction)
14. Life Estates
P 248–260 (skip 256–257 note 2, 260 note on seisin); PSS 10; bC: Boni-Saenz, *Distributive Justice and Donative Intent*, 65 UCLA L. REV. 324 (2018) (Introduction)
15. Defeasible Estates
P 261–264; PSS 11–12
16. Defeasible Estates (Part II)
P 264–275; bC: *Ink v. City of Canton*

Optional: P 275 (Review Problems 1–5, 8)

17. Introduction to Future Interests
P 277–284 (skip 280 problem 1(b), 284 problem 3), 288–289, 292–294 (through problem 2)

Optional: P 294–295 (Review Problems 1–10)

18. More on Future Interests; Introduction to Trusts
P 296–301 (through note 3)

19. The Rule Against Perpetuities (and Other Complications)
P 302, 302–304 (*skim*), 305–307 (*skim*), 308; bC: *Lucas v. Hamm*, 364 P.2d 685, 689–690 (Cal. 1961) (begin at [7, 8])

Concurrent Interests

20. Concurrent Interests

P 327–341 (skip 336 note 3, 340 notes 4–5); PSS 13

Optional: P 380 (Review Problem 2)

21. Relations Among Concurrent Owners

P 341–358 (skip 349–351 notes 5, 7, and 8(c), 355 note 3); PPL 6–9, 11–12, 14–15 (note 4 only)

22. Relations Among Concurrent Owners (cont'd)

No Additional Reading

Optional: P 380 (Review Problem 1, 3)

23. Marital and Community Property

P 358–365, 373–377 (skip 375 problem, 376 problem, 377 problems 1 and 3); PSS 13

24. Death, Divorce, and Dissolution

P 365–371, 372–373, 375 problem, 377–380; PSS 15–17; bC: Grouchy Greg Watkins, *Daddy Yankee's Ex-Wife Wants His Identity After Hundreds of Millions Go Missing*, AllHipHop.com (Oct. 2025); *Parks v. Lee* (skip page 7) and *Blumenthal v. Brewer* (¶¶1–6, 52, 58, 60–61, 63, 77–82 only); *Battle Over a \$9 Million Will Rests on Just One Clause*, N.Y. Times (Dec. 2019)

Optional: P 380 (Review Problem 4)

Leaseholds

25. Leasehold Estates

P 381–385, 404–407 (skip 407 problem 1); PSS 18

Optional: P 467 (Review Problem 1)

26. Discrimination in the Selection of Tenants

P 387–389, 396 note 1, 397–404 (begin at note 4) PSS 19–22; bC: Fair Housing Act Materials

27. Landlords' Rights and Duties

P 441–459 (skip 447 note 3); PSS 23–24; bC: *District of Columbia v. MP PPH* (Part III.A only, *skim*)

Optional: P 476 (Review Problem 3)

28. Defaulting Tenants

P 422–428 (through note 3 only), 428–430 (through note 3 only), 431–440; PPL 339–343, 344 note 5; PSS 25; bC: *The Crazy Story of the Professor Who Came to Stay—And Wouldn't Leave*, MOTHER JONES (Dec. 2016); Drew DeSilver, *As National Eviction Ban Expires, A Look at Who Rents and Who Owns in the U.S.*, PEW RESEARCH (Aug. 2021)

Land Use Controls

Private Land Use Controls

29. Creating Easements

P 621–622, 655–657, 658–664 (begin at “The first English textbook...” and through the note on licenses; skip 663 note 3, 664 note 5), 666 notes 1–4; PSS 26–27; bC: *Holbrook v. Taylor*

30. Creating Easements (Part II)

P 667–684 (skip 672 note 2, 673 note 4, 684 note 4); PSS 28

Optional: P 783 (Review Problem 1)

31. Scope and Termination of Easements

P 686–702 (through the paragraph on “Termination of Easements,” skip 693 note 3), 710 note 3, 711 note 7

32. Creating Covenants

P 715–722 (through the Review Problems), 732–735

33. Scope and Termination of Covenants

P 722–731 (skip 730 note 5), 736–747 (through note 4; skip 741–742 note 6, 746–747 notes 2 and 3); PSS 29–30

34. Common Interest Communities

P 759–761 (end at “Cooperatives”), 762–771 (end at “Notes”), 773 (Review Problems 1–9); PSS 31–34; bC: Wootsen, *He Refused to Pay a Fine for the U.S. Flag on His Porch. His Fight with the HOA Forced Him to Sell His House*, Wash. Post (July 2018)

Public Land Use Controls

35. The Common Law of Nuisance

P 623–627 (through note 1 only), 639–652 (through the first four paragraphs of the note on public nuisance; skip 651 note 3); PPL 201–205, 207–210, 212 (notes 1 and 2 only)

36. The Basics of Zoning

P 785–800, 805–808, 817–825 (through 825 note 3); PPL 372–373, 378–379, 380 note 4; PSS 33–34

Eminent Domain and Regulatory Takings

37. Public Use and Just Compensation

P 909–929 (skip 918–921 (dissenting op. of O’Connor, J.), 925–927 notes 4–5); PPL 460–467, 467–468 (notes 1 and 4 only); PSS 37–39; bC: Public Use and Just Compensation Materials

38. Two Categorical Rules: Nuisance and Physical Occupation

P 930–938 (skip 936–937 note 1, 938 note 3), 962–973 (through note 1), 1024–25 note 1

Optional: P 1045–1046 (Review Problem 3)

39. Measuring and Balancing: Diminution in Value

P 940–961 (skip 945–946 note 1)

40. A Third Categorical Rule: Total Regulatory Takings
P 974–966 (skip 984–986 (dissenting op. of Stevens, J.))
41. Conceptual Severance and the Denominator Puzzle
P 997 (note 1 only), 998 (note 5 only), 1039–1040 (notes 1–2 only); bC: *Murr v. Wisconsin*

Back to Basics

42. A Final Word
PPL 29–34 (skip 34 note 1)

ASSESSMENTS & EXAMINATIONS

Grading and Examinations

The grade you earn will be based primarily on one four-hour, in-class, open-book (but limited to printed materials only) final examination, consisting of two parts:

- a limited open-book, multiple-choice portion consisting of 0 to 50 questions; and
- a limited open-book, short-answer portion consisting of 0 to 10 questions.

The exam will test your understanding of the materials covered in class, including by testing your ability to apply the principles covered to new factual situations. We will cover further exam specifics during the semester.

The exam is presently scheduled for Saturday, December 5, at 830am.

Professionalism, Attendance, and Participation

I may adjust your final exam score by up to 10% of your earned grade to account for professionalism, attendance, and participation (see details below). Hence, these factors can serve as a tiebreaker for students who are at the border between grades. Note that high-*quality* participation and high-*quantity* participation are not the same: Students whose participation tends to drown out others' voices, is disrespectful, or consistently veers our conversations off track, may be treated the same as (or worse than) students who do not participate at all.

Interim Assessments

I do not incorporate graded midterm assessments. However, I will offer one ungraded, “practice” multiple-choice exam. We will also cover many problem in the class—and the schedule above highlights many optional review problems from [P]—that resemble the final exam’s short-answer questions. Other than these resources, alongside the previous exam materials available through the Law Library’s exam database (<https://www.law.berkeley.edu/library/exams/>), no other practice assessments are available.

GENERAL POLICIES AND INFORMATION

Course-Specific Policies

Attendance and Participation: If, for any reason, you are not prepared to participate in a regularly scheduled class, you may drop a “space-out” note on the lectern before the start of class. (Or, for virtual classes only, you may email me prior to the start of class.) You will not be called on that day. You may exercise this option up to eight times per semester. No reason is required (or desired) for exercising this option, and your decision to do so will not count against you for any grading purposes. Otherwise, please come prepared to

each class. Regular attendance is required even if you are using a space-out note. (If you must miss a class—in whole or in part—due to an unavoidable conflict, that absence will count as a space-out request. And please note that parents and guardians are welcome to bring their children to class in the event of a childcare disruption.) Make-up classes (including make-up classes scheduled in advance) are not subject to this policy because they fall outside of our regular schedule, and I understand that students may have existing obligations that conflict with the schedule for make-up classes. You are responsible for tracking your own use of space-out notes. Any space-out request beyond the eight options described above will be treated, for grading purposes, as an unprepared participation (though I may make, in my sole discretion, exceptions for extenuating personal circumstances).

Laptops: You may use a laptop or other, similar device to access reading assignments during class and take notes. I encourage you to take handwritten notes if you can. (Research suggests that most students are likely to better absorb information this way.) Using any computing device (including mobile phones) for non-class-related activities is prohibited. This is not a paternalistic rule: It is an externality regulation. Your Internet activity is likely distracting to your colleagues sitting near you. Moreover, if your Internet activity affects your contributions to class, then our entire discussion suffers.

Artificial Intelligence: In general, my policy on the use of “artificial intelligence” (AI) resources conforms to Berkeley Law’s general policy on such matters. If you have questions about the use of AI resources in this class, feel free to ask me directly. Please do so before engaging the use of an AI tool, as many uses may violate the honor code (see below) and result in severe consequences.

Class Recording: Our regularly scheduled course lectures are not recorded, and I generally do not permit students to record lectures (except, of course, in the case of disability accommodations approved by Student Services). This is because the success of our class depends on active student participation—but research suggests that students are less likely to participate if they know their discussions are recorded. Moreover, students (and instructors) have legitimate privacy concerns regarding class recording. Students may participate in class assured that their in-class contributions will not be recorded, except as necessary for a disability accommodation.

I may make, in my sole discretion, limited exceptions to this policy for extenuating class-wide circumstances, including for virtual classes. Make-up classes (including make-up classes scheduled in advance) are recorded because they fall outside of our regular schedule, and I understand that students may have existing obligations that conflict with the schedule for make-up classes. Berkeley Law’s academic rules prohibit students from distributing class recordings—including complete and partial audio or video recordings, chat transcripts, and screenshots—for any reason (unless authorized in connection with a disability accommodation).

Slides: The slides are signposts for our discussion, and they will rarely—if ever—contain everything you need to know about a subject to succeed in this class. Please plan to rely on your own notes, and not the course slides, for study and review. I will periodically post the slides on bCourses, usually after each major unit of material.

Office Hours & Course Questions: I will hold regular office hours on Mondays from 200pm–330pm. My door will be open for drop-in questions from 200pm to 300pm. You may reserve a private appointment with me at 300pm or 315pm on Mondays using the sign-up sheet posted outside my office door (689 Simon). If no appointments are scheduled at that time, my door will remain open for drop-in questions. You may use this time to ask me about the course and course material, and also to ask me other questions about law, legal careers (including clerkships), law school, or other related topics.

I am also happy to respond to course-related questions by email (at tnarecha@law.berkeley.edu), but only if each question is accompanied by your best attempt at a reasoned answer, as this helps me to identify the source of your question and to quickly craft a helpful response.

Visiting Property: It is important to remember that the cases and materials we study in this class involve real places and real people. It is relatively easy, in the classroom, to abstract away these concrete concerns for the purposes of our study and our own understanding of the law. Indeed, that is often part of the common law exercise. But in some of these cases, the litigants' very livelihood turned on the courts' decisions. Seeing the places affected by these cases might help you remember this important fact of the law (and anchor your understanding of the cases, as well). You can "visit" many of the real places implicated in our course materials here: <http://bit.ly/PropertyMap>.

Berkeley Law Policies

Credit Hours: A "credit hour" at Berkeley Law is an amount of work that reasonably approximates three to four hours of work per week for 15 weeks, including a) classroom time, b) time spent preparing for class, c) time spent in review sessions and studying and taking, final exams, d) time spent researching, writing, and revising papers and other written work, and e) time spent preparing for and completing any other final project, presentation, or performance. For the purposes of these calculations, 50 minutes of classroom instruction counts as one hour, and the 15 weeks includes the exam period. You can expect to spend this amount of time per unit per week on in-class and out-of-class, course-related work as described above.

Accommodations: Because the law school is committed to anonymous grading, the Office of the Dean of Students schedules all exams, including accommodated exams. Professors do not have the authority to reschedule exams. Students who need accommodations for disability or pregnancy or want to discuss the implementation of their accommodations, including accommodated exams, should contact Chelsea Yuan, Director of Student Academic Advising and Support Services—Accessible Education, as soon as possible. Honor Code: The Academic Honor Code governs the conduct of all students during examinations and in all other academic and pre-professional activities at Berkeley Law. We expect students to adhere to this code scrupulously. If you have any questions about whether your conduct may violate the code, please contact your professor or the Dean of Students before you act. You may face severe consequences, including a failing grade in this class or removal from the program, and the Bar will receive notification of your conduct.

If you suspect that the Academic Honor Code has been violated, do not take matters into your own hands. Instead, please contact the Dean of Students as soon as possible with your concerns.

Resources and Support

Academic Skills: The Academic Skills Program helps students develop such core academic skills as time management, case-reading, outlining, and exam-taking. It offers handouts, study aids, and practice exam information, among other resources. For details, visit: <https://bit.ly/BerkeleyLaw-ASP>.

Technology Help: You are entitled to general software support for your computer from the law school and certain free software downloads from UC Berkeley while an enrolled student. If you have issues with internet access or computer equipment required to participate in classes remotely, contact studentcomputing@law.berkeley.edu. Information, links, and instructions for many common computer/technical questions can be found in the law library's online computing guide. For bCourses, Zoom, and technical support questions, please email studentcomputing@law.berkeley.edu or you can use the Student Computing chat. In either case, someone will respond to you during regular business hours.

Research Questions: For research-related questions, please contact the reference librarians by filling out the reference request form on the law library's website. You may also reach the reference librarians during business hours by using the law library's chat service.

Economic Support: If you need economic, food, or housing support, you may find basic needs information at basicneeds.berkeley.edu. You may be eligible for money to buy groceries via CalFresh or the Food Assistance Program. If you need food immediately, please visit the UC Berkeley Food Pantry.

I also typically keep snacks in my office. If you are hungry and need something to eat, please come by and let me know. I am happy to share, no questions asked.

Sexual Harassment and Prohibited Conduct: The University of California is committed to creating and maintaining a community dedicated to the advancement, application, and transmission of knowledge and creative endeavors through academic excellence, where all individuals who participate in University programs and activities can work and learn together in an atmosphere free of harassment, exploitation, or intimidation. The University prohibits sexual violence and sexual harassment, retaliation, and other prohibited behavior that violates the law or University policy. The University will respond promptly to reports of such prohibited conduct and will take appropriate action to prevent, correct, and when necessary, to discipline behavior that violates the University's Sexual Violence and Sexual Harassment Policy. If you have further questions or concerns about reporting behavior related to sexual harassment, sexual violence, and/or protected category discrimination, please contact the Office for the Prevention of Harassment and Discrimination (OPHD) by phone 510-643-7985 or email ask_ophd@berkeley.edu. Moreover, the Confidential Advocates at the Path to Care Center provide can provide affirming, empowering, and confidential support for those that have experienced gendered violence, including sexual harassment, emotional abuse, dating, and intimate partner violence, sexual assault, stalking, and sexual exploitation. The Center can be reached by phone at (510) 642-1988.

A FINAL NOTE

In order to be a great lawyer, you must be able to effectively engage with *all* sides of an argument. To help develop this skill, we will maintain an atmosphere in which we admit open discussion about the law and policy, in which we are open to considering new ideas, and in which we respect each other's opinions. We will practice respect, empathy, and patience in our class.