This is a class about the law and practice of buying, selling and financing real estate. In the course of the semester, we will focus on larger themes inherent in real estate transactions. What is the role of the lawyer in the real estate market? What are the primary risks that transactional lawyers in real estate need to understand? What tools do real estate attorneys bring to the identification, allocation, and management of those risks?

This is a course, then, about real estate as deal making and the myriad ways attorneys structure transactions, negotiate, craft documents, engage with clients, and resolve disputes. We will also discuss the current economic crisis – a crisis triggered in many ways by problems in the real estate market.

Course Information

Class Meetings. Class meets Mondays and Wednesdays from 1:00 to 2:20 p.m. in Room 205.

Contact Information. My office is Room 443, my office phone is (303) 735-5294, and my e-mail is nestor.davidson@colorado.edu.

Office Hours. My office hours are Thursdays from 1:30 p.m. to 3:30 p.m. and by appointment.

TWEN. I have set up a TWEN site for this class. Please check the site regularly – you are responsible for materials and announcements posted there. The course materials are password protected, and the password is “Real Estate.”

University Policies. Please note the following:

Religious Observances. Campus policy regarding religious observances requires that faculty make every effort to reasonably and fairly deal with all students who, because of religious obligations, have conflicts with scheduled exams, assignments or required attendance. See full details at http://www.colorado.edu/policies/fac_relig.html. If you need accommodation for religious observances, please let me know in advance.

Individuals with Disabilities. If you qualify for accommodation because of disability please submit a letter to me from Disability Services so that your needs may be addressed. If
you have any questions about accommodations for a disability, please contact Assistant Dean Lorenzo Trujillo (303-492-6682, lorenzo.trujillo@colorado.edu).

*The Honor Code.* Read it, understand it, and follow it. See http://www.colorado.edu/Law/about/honorcode/index.htm.

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**Course Materials**

*Required Materials.* The primary text for the course is ROBIN PAUL MALLOY & JAMES CHARLES SMITH, REAL ESTATE TRANSACTIONS: PROBLEMS, CASES, AND MATERIALS (3rd ed. 2007) (“CB”). We will also have supplemental readings that I will post on TWEN.

I will post each week’s reading in advance, and will adjust our pace as necessary throughout the semester. In addition, I will indicate in advance which problems to prepare.

Note also that there are transactional documents and additional problem sets that accompany the casebook. We will be using a portion of these documents in class, and I will let you know which sections will be relevant.

Finally, toward the end of the semester, we will be joining the Deals course to examine a real estate transaction from several angles. Details will be announced.

*Reserve Reading.* If you would like more background on a particular topic, you may wish to consult the following materials on reserve:

ALEX M. JOHNSON, UNDERSTANDING MODERN REAL ESTATE TRANSACTIONS (2nd ed. 2007)


JOSHUA STEIN, A PRACTICAL GUIDE TO REAL ESTATE PRACTICE (2001)

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**Course Requirements**

*Final Examination.* There will be a three-hour final exam for this course. The exam will be limited open-book, by which I mean that you may bring only assigned materials and any material you have created. The exam will be based on the lectures, class discussions, and assigned materials (whether discussed in class or not).

*Assignments.* From time to time, we will undertake document-review and other practice-oriented exercises and problems. Your participation in these exercises will count for 10% of your grade.

*Classroom Participation.* In-class participation is a vital aspect of this course.
I will pass around a seating chart on Wednesday, January 14th. Please sit where you would like to remain for the rest of the semester on that day.

To encourage your participation in our discussions, I will be following a variation of the “present and prepared” policy. Starting on Wednesday, January 21st, I will bring a copy of the seating chart to each class, dated for that day. If you are present and prepared to be called on, circle your name on the chart when you arrive—you will then be counted as “present and prepared” for that day and I may call on you.

If you not are “present and prepared” for 80% or more of our regularly scheduled classes, your grade for the semester will be lowered by three points (or more in egregious cases). Conversely, I reserve the right to increase your final grade for superior classroom participation, both when I call on you and for voluntary participation.

To be “prepared” you must have read the assignment and have made a good faith effort to think through the materials. You do not have to have perfect answers to my questions, but you must be willing to discuss the assigned reading (and prior readings) and work through the questions with the class. If you do sign up as prepared, I call on you, and in my opinion you are not prepared, I reserve the right to lower your final grade. (Not that any of you would do so, but if you have someone else sign you in and you are not present, I will dock your grade as well.)

Please sign up before class begins. If you arrive late—but not more than 10 minutes after class begins—you may still sign up but that will require you to interrupt the class, so please be punctual.

Faculty assistant Kristen Vannoy, who works in Room 435, will keep a running tally of present and prepared sign-ups. If you want to check on the number of classes you have signed up for as “present and prepared,” please see Ms. Vannoy.

Let me know if you have any questions about this policy.
Syllabus

I. Introduction: Real Estate Markets and Players

   Market Context for Real Estate Transactions, Housing
   CB 1-24, 313-314, 319-320, 328-330, 337-338, 344-345

   Brokers and Lawyers
   CB 25-27, 28-29, 33-35, 41-60

II. Real Estate Contracting

   Preparing to Contract
   CB 61-80

   Executory Contracts
   CB 81-104

   Condition of the Property
   CB 105-137

   Closing the Contract
   CB 139-155

   Contract Remedies
   CB 157-179

III. The Title System

   Allocating Title Risk
   CB 181-203

   Land Descriptions
   CB 205-229

   Public Records
Title Products
CB 231-268

Improving the Efficiency of The Title System
CB 269-291

IV. Mortgages

Introduction to Mortgages
CB 351-354, 367-406

Possession and Use of Mortgaged Property
CB 355-365

Mortgage Obligations
CB 407-427

Transfers of the Mortgaged Property, Default and Accelleration
CB 427-445

Foreclosure
CB 447-472

Mortgage Substitutes
CB 473-494

Junior Mortgages
CB 495-510

V. Selected Issues in Commercial Real Estate
CB 511-563