REAL ESTATE TRANSACTIONS
Spring 2007
Professor Nestor Davidson

This is a class about the law and practice of buying and selling real estate. In the course of the semester, however, 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.

Course Information

Class Meetings. Class meets Mondays and Wednesdays from 1:00 to 2:15 p.m. in Room 206.

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 Wednesdays from 3:00 p.m. to 5:00 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.

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.
Course Materials

Required Materials. The primary text for the course is ROBIN PAUL MALLOY & JAMES CHARLES SMITH, REAL ESTATE TRANSACTIONS: PROBLEMS, CASES, AND MATERIALS (2nd ed. 2002) (“CB”). We will also have supplemental readings that I will post on TWEN.

I will post each week’s reading in advance, but 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.

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 (2001)


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

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 Monday, January 22nd. 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 24th, 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 Barb Cooper, 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. Cooper.

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
CB 3-43

Brokers and Lawyers
CB 45-59, 63-68, 74-95

II. Real Estate Contracting

Preparing to Contract
CB 99-126

Executory Contracts
CB 129-167

Condition of the Property
CB 169-204

Closing the Contract
CB 207-235

Contract Remedies
CB 237-269

III. The Title System

Allocating Title Risk
CB 273-290, 293-298, 300-316

Land Descriptions
CB 317-347, 351-360
Public Records
    CB 361-419

Title Products
    CB 421-475

Improving the Efficiency of The Title System
    CB 477-478, 484-493

IV. Mortgages

Introduction to Mortgages
    CB 565-575

Possession and Use of Mortgaged Property
    CB 579-595

Mortgage Obligations
    CB 661-665, 672-674, 679-699

Transfers of the Mortgaged Property
    CB 701-705, 711-722, 729-731

Default and Acceleration
    CB 733-735, 741-744

Foreclosure
    CB 763-809

Mortgage Substitutes
    CB 811-815, 820-821, 827-830

Junior Mortgages
    CB 847-851, 855-861, 865-869, 875-877
V. Commercial Real Estate

Introduction

CB 881-893, 924-930

Article 9

CB 909-923

Development Entity – Selection and Management

CB 901-909