I. COURSE DESCRIPTION – PROPERTY

A. Seven Substantive Areas of Property

This course will cover seven substantive broad areas of property law, including:

1. Landlord and Tenant Law,
2. Find, Bailment, Adverse Possession, Bona Fide Purchaser, and Gift
3. Discovery, Feudalism, and Estates,
4. People as Property and Property in One’s Person,
5. Future Interests, Inheritance, and Alienation,
6. Co-ownership (Joint Tenancy and Tenants in Common), and
7. Servitudes (Licenses, Easements, Real Covenants, Equitable Servitudes)

This course will not cover acquisition by capture, creation, marital interests, acquisition of real property (conveyancing), title assurance, judicial land use control (nuisance), and legislative land use controls (zoning).

B. Legal History, Ethics, Professionalism, and Morality

In this course, history, ethics, professionalism, and morality issues will also be analyzed.

C. Legal Methods and Skills

This course will develop analytical reading, thinking, speaking, and writing skills (“like a lawyer”), utilizing the “Crusto TSIRRAAC” system. We will use “Socratic” dialogue in class to discuss your reading and analyzing of judicial appellant decisions.

D. Professor’s Assistance

Please consult with me anytime by email at mcrusto@wulaw.wustl.edu. Group discussions will be held on Monday, Tuesday, and Thursday in Room 305, from 4:00-5:00 p.m. Individuals may meet me in my office located, Rm. 458, on Monday and Tuesdays from 5:00-6:00 p.m. (My cell telephone number is (314) 323-9307, for emergency use only.)
II. Course Requirements/Grading System

A. Grading

As is traditional, your semester grade is based solely upon your performance on a Final Examination. The Final Examination is a four-hour, scheduled closed book examination. It is scheduled to be given during the weeks December 4th-15th, 2006. The Final Examination is "blindly graded" as to protect the exam taker's identity. Final grades are subject to the Law School grading policies. Please note that the Law School has an honor code which each student is expected to review and follow.

On a related subject, if you have special needs (alternative testing, etc.), please contact Susan Halvorson, the Assistant Registrar at the Law School, office number 303C, telephone number 314-935-4750 or email her at halvorss@wulaw.wustl.edu.

B. Class Attendance

On time class attendance is required, and attendance will be taken each class. You are allowed a certain number of excused or unexcused absences, pursuant to Law School policies. If you are three classes for any reason, you must meet with me immediately to discuss your performance.

C. Class Participation

Please come to class prepared to participate. This means that you have completed the class preparation by reading, analyzing, and briefing the assigned reading. The model we will follow in class is that you as presenting lawyer, your fellow classmates as jury, and the teacher as judge. When called on, you are expected to respond with knowledge and analytical appreciation of the reading assignment.

D. Academic Success

Transitioning into law school presents unique challenges often requiring special assistance. To support students in this transition, the Law School has available an academic success coordinator. Please contact Elizabeth Patton Walsh, Director of Student Services, at the Law School, office number 302D, telephone number 314-935-5861 or email her at eapatton@wulaw.wustl.edu.

III. Specific Topics of Proficiency

Students are responsible to exhibit a working knowledge of the issues, rules (including relevant authorities, statutory, cases and Restatements found in the Course material described herein), rationale, and application of specific topics of property law. Listed below are the specific topics to be covered in this course. Each topic is followed by an essential question. A proficient student will be able to answer each question after taking this course, knowing the relevant legal principles/rules of law and their application.
1. Property
   What is Property?

2. Leases
   How are leaseholds different from freeholds?

3. Holdovers and Lease
   What is a holdover and is a lease a contract or property?

4. Tenant Selection
   Can a landlord refuse to lease to a “qualified” tenant?

5. Delivery of Possession
   Is delivery of possession implied in a lease?

6. Sublease and Assignment
   How does a sublease differ from an assignment?

7. Tenant Defaults
   What can a landlord do if a tenant defaults on a lease?

8. Tenant Abandons
   What can a landlord do if a tenant abandons the premises?

9. Landlord’s Duties; Illegal Lease
   What are a landlord’s duties to a tenant? What is an illegal lease?

10. Implied Warranty of Habitability
    When does the implied warranty of habitability apply, what result?

11. Tenant’s Duties; (Un)affordable Housing
    What are a tenant’s duties to a landlord? What are the problems of affordable housing?

12. Find
    Does a finder own lost, abandoned, or mislaid property?

13. Bailment
    What is a bailment and does it ever transfer title to property?

14. Adverse Possession
    Can an adverse possessor acquire property; what is the role the statute of limitations?

15. Gift
    What is a gift, what is required to make one, and compare to an oral trust?
16. Bona Fide Purchaser
   Who is a bona fide purchaser and can she have better title than the true owner?

17. People as Property
   Can people be property?

18. Property in One’s Person
   Do you have a property interest in your body parts?

19. Right to Include, Exclude, and Destroy
   Does the right to property always include the rights to include, exclude, and destroy?

20. Procedural Protections
   What procedures or causes of action protect property rights?

21. Discovery
   Can real property be acquired by discovery?

22. Feudalism and Estates
   How does feudalism influence the modern concept of an estate?

23. Fee Simple, Inheritance, and Fee Tail
   What is fee simple, fee tail and how created? What is intestate succession?

24. Life Estate, Defeasible Estates
   What is a life estate? What types of defeasible estates are there?

25. Future Interests
   What are future interests, types, and in whose interest?

26. Executory Interests, Trusts
   What are equitable interests in land? What is a use? What is a trust?

27. Marketability Rules- Shelley’s Case, Worthier Title
   What are special rules relating to conveyancing to heirs, the Rule in Shelley’s Case, the Doctrine of Worthier Title?

28. The Rule Against Perpetuities
   What is the Rule Against Perpetuities, how does it operate, what is its purpose?

29. Co-ownership- Joint Tenants and Tenants in Common
   What is a joint tenancy? What is a tenancy in common?

30. Relations Among Co-Owners
   What are the rights/duties between co-owners?
31. Servitudes
   What non-possessory rights are incidental to ownership of land?

32. Easements
   What are easements and licenses? How are they created, transferred, and terminated?

33. Easements by Necessity/Prescription/Public Trust
   What are easements by necessity, by prescription? What is the public trust doctrine?

34. Assignability and Scope of Easements
   Are easements assignable? What is their scope?

35. Termination of Easements
   How are easements terminated?

36. Negative Easements/Real Covenants/Equitable Servitudes
   What are negative easements, real covenants, and equitable servitudes?

37. Creation of Covenants Running with the Land
   What are "covenants running with the land," and how are they created?

38. Scope/Termination of Covenants
   What is the scope of covenants and how are they terminated?

39. Common Interest Communities
   What are condominiums and co-ops? How are they regulated?

IV. LECTURE SCHEDULE AND READING ASSIGNMENTS
(All pages listed refer to the Dukeminier casebook, unless otherwise indicated.)

<table>
<thead>
<tr>
<th></th>
<th>Monday, August 21</th>
<th>Syllabus; What is Property? pp. 10, 16, 46-7, 78, 81-2, 98-9</th>
</tr>
</thead>
<tbody>
<tr>
<td>2</td>
<td>Tuesday, August 23</td>
<td>Leaseholds pp. 206, 363-368</td>
</tr>
<tr>
<td>3</td>
<td>Thursday, August 25</td>
<td>Holdovers and Leases pp. 368-376</td>
</tr>
<tr>
<td>4</td>
<td>Monday, August 28</td>
<td>Selection of Tenants pp. 376-384</td>
</tr>
<tr>
<td>5</td>
<td>Tuesday, August 29</td>
<td>Delivery of Possession pp. 384-388</td>
</tr>
<tr>
<td>6</td>
<td>Thursday, August 31</td>
<td>Sublease and Assignments pp. 388-402</td>
</tr>
<tr>
<td>7</td>
<td>Monday, September 4</td>
<td>Labor Day Holiday No Class</td>
</tr>
<tr>
<td>8</td>
<td>Tuesday, September 5</td>
<td>Tenant Who Defaults pp. 403-410</td>
</tr>
<tr>
<td>9</td>
<td>Thursday, September 7</td>
<td>Tenant Who Abandons pp. 410-421</td>
</tr>
<tr>
<td>10</td>
<td>Monday, September 11</td>
<td>Landlord’s Duties, Illegal Lease pp. 421-431</td>
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<tr>
<td>Date</td>
<td>Topic</td>
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<tr>
<td>Tuesday, September 12</td>
<td>Implied Warranty of Habitability-</td>
<td>pp. 431-441</td>
</tr>
<tr>
<td>Thursday, September 14</td>
<td>Tenant’s Duties, (Un)Affordable Housing-</td>
<td>pp. 441-449</td>
</tr>
<tr>
<td>Monday, September 18</td>
<td>Find-</td>
<td>pp. 95-113</td>
</tr>
<tr>
<td>Tuesday, September 19</td>
<td>Bailment-</td>
<td>p. 97 and Handout</td>
</tr>
<tr>
<td>Thursday, September 21</td>
<td>Adverse Possession-</td>
<td>pp 144-154</td>
</tr>
<tr>
<td>Monday, September 25</td>
<td>Gift-</td>
<td>pp. 157-159, 165-171</td>
</tr>
<tr>
<td>Tuesday, September 26</td>
<td>Bona Fide Purchaser-</td>
<td>pp. 148-150, 155-156</td>
</tr>
<tr>
<td>Thursday, September 28</td>
<td>People as Property-</td>
<td>Handout, Crusto, Blackness as Property</td>
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<tr>
<td>Monday, October 2</td>
<td>Property in One’s Person-</td>
<td>pp. 69-86</td>
</tr>
<tr>
<td>Tuesday, October 3</td>
<td>Right to Include, Exclude, Destroy-</td>
<td>pp. 86-93</td>
</tr>
<tr>
<td>Thursday, October 5</td>
<td>Procedural Protections-</td>
<td>p. 97-98; Handout (Nutshell)</td>
</tr>
<tr>
<td>Monday, October 9</td>
<td>Discovery-</td>
<td>pp. 3-17, 156-157</td>
</tr>
<tr>
<td>Tuesday, October 10</td>
<td>Feudalism and Estates-</td>
<td>pp. 173-181</td>
</tr>
<tr>
<td>Thursday, October 12</td>
<td>Fee Simple, Inheritance, and Fee Tail-</td>
<td>pp. 181-189</td>
</tr>
<tr>
<td>Monday, October 16</td>
<td>Life Estate, Defeasible Estates-</td>
<td>pp. 189-224</td>
</tr>
<tr>
<td>Tuesday, October 17</td>
<td>Future Interests-</td>
<td>pp. 225-233</td>
</tr>
<tr>
<td>Thursday, October 19</td>
<td>Fall Break- No Class</td>
<td></td>
</tr>
<tr>
<td>Monday, October 23</td>
<td>Executory Interests, Trust-</td>
<td>pp. 233-240</td>
</tr>
<tr>
<td>Tuesday, October 24</td>
<td>Marketability Rules-</td>
<td>Shelley’s Case, Worthier Title- pp. 240-244</td>
</tr>
<tr>
<td>Thursday, October 26</td>
<td>The Rule Against Perpetuities-</td>
<td>pp. 244-267</td>
</tr>
<tr>
<td>Monday, October 30</td>
<td>Co-Ownership- Joint and Tenants in Common-</td>
<td>pp. 275-291</td>
</tr>
<tr>
<td>Tuesday, October 31</td>
<td>Relations Among Co-Owners-</td>
<td>pp. 291-310</td>
</tr>
<tr>
<td>Thursday, November 2</td>
<td>Servitudes/Easements –</td>
<td>pp. 667-677</td>
</tr>
<tr>
<td>Monday, November 6</td>
<td>Licenses, Easements, Implied Easements –</td>
<td>pp. 677-688</td>
</tr>
<tr>
<td>Tuesday, November 7</td>
<td>Easements by Necessity/Prescription/Public Trust-</td>
<td>pp. 689-709</td>
</tr>
<tr>
<td>Thursday, November 9</td>
<td>Assignability and Scope of Easements –</td>
<td>pp. 709-725</td>
</tr>
<tr>
<td>Monday, November 13</td>
<td>Termination of Easements -</td>
<td>pp. 725-736</td>
</tr>
<tr>
<td>Tuesday, November 14</td>
<td>Negative Easements/Real Covenants/Servitudes -</td>
<td>pp. 736-750</td>
</tr>
<tr>
<td>Thursday, November 16</td>
<td>Covenants - Creation and Enforceability-</td>
<td>pp. 750-768, 772</td>
</tr>
<tr>
<td>Monday, November 20</td>
<td>Covenants – Scope/Termination -</td>
<td>pp. 773-798</td>
</tr>
<tr>
<td>Tuesday, November 21</td>
<td>Common Interest Communities &amp; Exam Review (Thursday schedule)-</td>
<td>pp. 798-819</td>
</tr>
<tr>
<td>Thursday, November 23</td>
<td>Thanksgiving break- No Class</td>
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</tr>
</tbody>
</table>

6