

**NOTICE TO STUDENTS WITH DISABILITIES:** If you need accommodations because of a disability, if you have emergency medical information, or if you need special arrangements in case the building must be evacuated, please notify me or Dean Trachtenberg as soon as possible. To request academic accommodations (e.g., a note taker), students must also register with the Office of Disability Services, S5 Memorial Union, 882-4696. This is the campus office responsible for reviewing documentation provided by students requesting academic accommodations, and for accommodations planning in cooperation with students and instructors, as needed and consistent with course requirements. For other MU resources for students with disabilities, click on “Disability Resources” on the MU homepage.

**PROPERTY I (Law 5050)  
(Sections 5, 6, 7, 8)**

Winter/Spring Semester 2024  
Professor Wilson Freyermuth  
2:00 p.m. to 2:50 p.m. MWF, Room 7  
Office: 215 Law School  
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**Course Information and Policies**

**TEXT AND MATERIALS:** The required text for this course is FREYERMUTH, ORGAN & NOBLE-ALLGIRE, *PROPERTY AND LAWYERING*, 3d ed. (WestGroup 2011). Copies are available in the campus bookstore or can be purchased online from a variety of sources, including Westlaw’s online bookstore. The following is a list of suggested secondary materials that may aid your study outside of class.

**JOHN G. SPRANKLING, UNDERSTANDING PROPERTY (Carolina Academic Press).** Many students find the mini-treatises in the *Understanding* series to be helpful resources, and this is a good one. The current edition is the Fourth Edition (2017), but either the 2d or 3d edition is also perfectly functional as a study aid. There are at least three copies on library reserve for your use. [Note: This is the only one of the secondary materials listed here that is not available electronically as part of the Library’s Study Aids packages.]

**HOVENKAMP, KURTZ & GALLANIS, PRINCIPLES OF PROPERTY LAW (7th ed., West).** This paperback treatise (part of West’s Concise Hornbook series) is moderate in its coverage and does an excellent job of laying out basic property rules in an extended outline form. It has numerous short essay-type questions (with answers) for you to test your understanding of basic concepts. **Don’t buy a copy; it is available to you for free online through West Academic Study Aids package available through the Law School library.**

**WHITMAN, BURKHART, FREYERMUTH & RULE, THE LAW OF PROPERTY (4th ed., West).** Published in 2019, this hornbook is the most detailed in its coverage. If you cannot find a

satisfactory explanation in either of the previous two treatises, consult this one. **Again, don't buy a copy. There are multiple copies on library reserve, and it is also available to you for free online through the West Academic Study Aids package.**

**LEARNING OUTCOMES:** In compliance with Standard 301(b) of the American Bar Association's Standards and Rules of Procedure for Approval of Law Schools, the following statement reflects the learning outcomes for this course.

The Property I course focuses on how the law uses the concepts of "ownership" and "possession" to resolve interpersonal disputes over access to, use of, and control over resources, with the greatest focus on land ("real" property). We will talk about this in each of the different contexts identified in the "Course Coverage" outline appearing later in this Syllabus. Students will:

- discuss and learn the substantive legal rules that apply in these different contexts (e.g., Exclusion, Nuisance, Adverse Possession, Gifts, Estates and Future Interests in Land, Concurrent Ownership).
- discuss and learn how these substantive legal rules reflect varying public policy concerns relevant to interactions between persons over resources (and the balancing of these competing policy concerns).
- discuss and learn to synthesize the application of these concepts and policies across these differing contexts (e.g., how do the rules governing Nuisance and Adverse Possession "fit" with the rules governing Concurrent Ownership?).
- discuss and learn how lawyering requires both effective advocacy in dispute resolution, the development/implementation of problem-solving skills, and the use of those skills in forming/documenting transactions involving the transfer of property;
- gain foundational knowledge necessary for the required Property II course as well as the elective course in Trusts and Estates; and
- gain foundational knowledge necessary for success on the Property portion of the bar examination.

**EXPECTATIONS:** To facilitate the accomplishment of the learning outcomes noted above, I have several basic expectations of each student in the course:

- **To be present for each class on time, with devices silenced, so that class can commence promptly at 2:00 p.m.**
- **To have read the assignment for the class period, and to be prepared to participate in class discussion.** Each of you has a responsibility for your own learning and that of your fellow classmates. If you are not present in class, not attentive, not engaged in discussion with your classmates, and not contributing to class discussion generally, you are not fulfilling that responsibility.

- **To participate actively in class discussion, even if you are not sure of the “right” answer.** One of the most important lawyering skills that you must develop—whether as an advocate or a counselor—is the ability to process verbal and written information and to respond to extemporaneous questions or comments in a concise and articulate way. One of the benefits of the law school classroom is that you can work to develop this skill in an environment where your mistakes have no third-party consequences—i.e., if you answer a question wrong in class, your client does not go to jail, become subject to an enormous monetary judgment, or lose the potential benefit of an advantageous contract. You and your classmates can (and should) learn not only from one another’s insights, but also from one another’s mistakes.
- **To make an appropriate effort to “fill the gaps” in your understanding of the course material.** As you review and attempt to synthesize the course material, you will inevitably identify questions or issues about which you are uncertain. You should be prepared to fill these gaps through such means as: (a) posing questions during or after class; (b) posing questions to fellow classmates outside of class; (c) making appropriate reference to secondary resources; and/or (d) taking advantage of opportunities to pose questions to me during question/answer sessions, office hours, or by e-mail. I especially encourage you to pose questions immediately following a class meeting, while those questions are fresh in your mind.

**DECREASING THE RISK OF COVID-19:** If you are experiencing any COVID-related symptoms, or are otherwise feeling unwell, do not attend class and contact your health care provider and/or student health immediately. COVID symptoms include fever greater than 100.4 or chills; cough, shortness of breath or difficulty breathing; fatigue; unexplained muscle or body aches; headache; new loss of taste or smell; sore throat; congestion or runny nose; nausea or vomiting; diarrhea. If you are unable to attend a scheduled class due to illness or medical reasons, an audio recording of the class will be posted on the course Canvas site for your review, and any Powerpoint materials used during the class will also be posted on the course Canvas site.

**COMMUNICATION WITH STUDENTS:** I have traditionally maintained an “open-door” policy. You are welcome to connect with me in any of the following ways:

- I will remain in Room 7 after each class session for follow-up questions.
- I will have in-person Office Hours (Room 215) from 10:00 a.m. to 12 noon on Tuesdays.
- If the regular Office Hours don’t work in your schedule and you’d like to set up a specific appointment time, send me an e-mail at [freyermuthr@missouri.edu](mailto:freyermuthr@missouri.edu) to schedule a time.
- You can communicate with me by e-mail to raise questions or concerns at any time. My address is [freyermuthr@missouri.edu](mailto:freyermuthr@missouri.edu).

- If I am in the building and in my office, you are welcome to stop by my office with a question, even outside of office hours (subject to the caveat that if I am tied up with another deadline or preparing for class, I may ask you to schedule more convenient time).
- During the semester, as we finish certain chapters in the casebook, I will schedule general question/answer sessions. These sessions are voluntary and are intended to assist students in their review and synthesis of the course materials. Dates and times will be posted as Announcements on the course Canvas page as the course proceeds.

**ATTENDANCE POLICY:** According to American Bar Association accreditation guidelines, class attendance is required and expected of all students. During each class, I circulate a sign-in sheet for you to record your attendance. You are responsible to make sure that your name is on the attendance sheet. Any student that misses more than **ten (10)** regularly scheduled classes during the semester *will be withdrawn from the course or will be subject to a 1-point grade reduction for each absence beyond the tenth one.*

If you must miss a class because of illness, family responsibilities, a job interview, or the like, I would appreciate it if you can provide me with prior notice of your anticipated absence (an e-mail message is fine). In cases of emergency when notice prior to class is impossible, your notice should come as promptly as possible afterwards. In practice, colleagues will expect such courtesy, so I encourage you to get in the habit of providing notice when you must miss class.

If you cannot attend a particular class session because you are ill or need to quarantine, I will count you as “present” for that class session ***if you complete the following protocol:*** (1) you advise me of your absence by e-mail, either before or immediately after the class in question; (2) you review the recording of the class you missed; and (3) you send me an e-mail message with at least two questions that you have regarding the assigned materials (after you’ve reviewed the readings and the class recording). It is your responsibility to demonstrate that you have complied with the attendance policy.

**COMMUNICATION USING THE COURSE CANVAS SITE:** I will maintain a Canvas site for this course, which is available using your MU pawprint and password at [canvas.missouri.edu](https://canvas.missouri.edu) or [courses.missouri.edu](https://courses.missouri.edu). At the end of this Syllabus, you will find a Course Schedule that reflects each Module to be covered in the Property I course. The assigned readings (from the casebook or any handouts) and discussion prompts for each module are posted on the Canvas site. These announcements will be archived on the site all semester.

I will sometimes post an Announcement on the Canvas site to clarify a point of confusion that arose in class, or to pass along to the entire class a question (and answer) that a student posed after class or in my office. I will also sometimes use the Canvas discussion board to post a question to prompt interchange in that setting about issues or questions for which class time was not sufficient. Finally, any messages regarding the postponing or rescheduling of classes due to weather and/or professional meeting conflicts will be posted by announcement to the Canvas site. All class recordings will be archived as Panopto videos on the Canvas site (via the “Panopto Videos” link in the Canvas navigation menu) and PDF files of any Powerpoints used during class will be posted on the Canvas site (via the “Powerpoints” subdirectory accessible via the “Files” link in the Canvas

navigation menu). **You should visit the Canvas page regularly to check for new information about the assignments for upcoming and future class meetings.**

**COURSE GRADE:** Grades in this course will be based on the following:

- A. **Midterm Exam.** There will be a one-hour mid-term essay examination on Friday, March 15, 2024. The midterm will be administered during the regularly scheduled class period. The midterm exam will constitute 20% of your course grade.
- B. **Final Exam.** There will be a final exam administered on the date and time indicated on the Law School's final examination schedule (which will be posted later in the semester). The exam will be cumulative of the entire semester. It will consist of multiple choice, short answer, and essay questions and you will have four (4) hours to complete it. The final exam will constitute 80% of your final course grade.

Your final course grade is based on your performance on these exams, subject to adjustment under paragraph C below ("Class Participation").

- C. **Class Participation.** Participation in class discussion is an integral part of the law school learning experience. As a result, I both encourage and expect you to participate in class discussion. I reserve the right to add **one to two (1-2) points** to a student's final course grade for **consistent and exceptional** class participation. I reserve the right to deduct **up to two (2) points** from a student's final course grade for repeated unpreparedness. [Note: this has happened only three times in previous Property classes, but it has happened three times.] I also reserve the right to **deduct one (1) point** for each absence exceeding ten (as discussed under "Attendance Policy" above).

For each Module, the reading assignment will include a series of questions relating to the assigned material. These questions will provide the primary basis for in-class discussion. To facilitate good class discussion and the optimal use of limited class time, **I encourage you to review and discuss the questions carefully prior to class, including discussion with your study group (if you have one).**

**ASSIGNMENTS:** At the end of the Syllabus, you will find a Course Coverage outline that lays out the tentative order of coverage for the semester, breaking up the coverage into Modules. Some Modules may take only one class period and others may involve two or more class periods. Each assignment Module will be posted on Canvas, along with discussion prompts to help structure class discussion. Prior to each class, all students should have read, and should be prepared to discuss, any portion of the assigned material for the Module.

**OTHER SUPPLEMENTAL RESOURCES — CALI LESSONS AND PROFDALÉ VIDEOS:** For some topics in this class, there are interactive computer lessons for Property law available from CALI (The Center for Computer-Assisted Legal Instruction). Module assignments will indicate the course topics for which there are currently CALI lessons available. Where the weekly assignments indicate that a CALI lesson is available, you may wish to review that lesson

in conjunction with the assigned reading from the casebook. The lessons are available via the web from CALI's website, which is [www.cali.org](http://www.cali.org).

Professor Dale Whitman (former Dean and Missouri Endowed Professor here at Mizzou, who retired in 2007) also has a series of narrated powerpoint videos [ProfDale's Property Videos] which he has made available for student use via his Youtube channel. You can find the videos at <https://www.youtube.com/channel/UCwnFN8ldc5cPT8wqw4USrfw/videos>. The ones germane to Property I are Videos 1-19 as well as Videos 47 to 51. Each module will include a link or reference to the numbered video or videos which are germane to the topic of that module (some modules will have several; other modules will not have any). These videos are resources which you are welcome (though not required) to use.

**ACADEMIC INTEGRITY:** Academic integrity is fundamental to the activities and principles of a university. All members of the Law School community must acquire, develop, and present their work responsibly and honorably. Any effort to gain an advantage not given to all students is dishonest, whether or not the effort is successful. The Law School community regards breaches of the academic integrity rules as extremely serious matters. Sanctions for such a breach may include grade sanctions (up to and including failing the course) and disciplinary sanctions ranging from probation to expulsion. I encourage you to make sure that your work in this and other courses complies in all respects with the Law School's Honor Code. If you have any question regarding whether your conduct complies with the Honor Code, you should contact me for clarification. If you become aware that you or another student have violated the Honor Code, you **MUST** report the violation promptly to me or to Dean Trachtenberg.

**RECORDINGS:** UM System Executive Order No. 38 lays out principles regarding the sanctity of classroom discussions at the university. The policy is described fully in Section 200.015 of the Collected Rules and Regulations of the University of Missouri. In this class, students may make audio recordings of course activity. **However, any distribution or redistribution of such recordings of statements or comments from the course to individuals who are not students in the course (including, but not limited to, any posting of a recording to social media) is prohibited without my express permission and the permission of any other student in the class who was recorded.** Students who violate this policy are subject to discipline in accordance with provisions of section 200.020 of the Collected Rules and Regulations of the University of Missouri pertaining to student conduct matters. **Note: Because this class is being recorded already for posting to the Canvas site, you do not need to record the class yourself.**

**INTELLECTUAL PLURALISM:** The University community welcomes intellectual diversity and respects student rights. Students who have questions or concerns regarding the atmosphere in this class (including respect for diverse opinions) may contact Dean Litton or Dean Trachtenberg, the director of the Office of Students Rights and Responsibilities, the MU Equity Office, or [equity@missouri.edu](mailto:equity@missouri.edu). All students will have the opportunity to submit an anonymous evaluation of the instructor at the end of the course.

## **COURSE COVERAGE**

Please refer to each Module on the course Canvas site for precise reading assignments and class discussion prompts for each Module.

I. Exclusion, “First-in-Time,” and the Significance of Possession

Module A Trespass and “Takings”

Module B Nuisance

Module C Air Rights and Subsurface Rights

Module D Tangible Personal Property

Module E Intangible Property

Module F Found Property

II. When Is Prior Possession Not Enough? The Estoppel Concept

Module G Nemo Dat and Bona Fide Purchase of Personal and Real Property

Module H Adverse Possession: Claims Under Color of Title

Module I Adverse Possession: Boundary Disputes

III. Transferring Property by Gift

Module J Absolute Gifts of Present Interests

Module K Conditional Gifts and Gifts of Future Interests

V. The System of Freehold Estates (Present and Future)

Module L Fee Simple Absolute Estates and Life Estates

Module M Legal and Equitable Estates (and the Basics of the Trust)

Module N Defeasible Estates

Module O Contingent Future Interests and the Rule Against Perpetuities

VI. Concurrent Ownership

Module P Types and Characteristics of Concurrent Ownership

Module Q	Joint Tenancy and Severance of Joint Tenancy
Module R	Tenancy by the Entirety
Module S	Rules Governing the Relationship Between Co-owners: Accounting, Contribution, and Partition