

Financing Real Property/Real Property Security
Syllabus – Fall Semester 2021 – Maddox
Office Hours: By appointment or after class
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Casebook: Nelson & Whitman’s Cases and Materials on Real Estate Transfer, Finance & Development (9th ed. 2015). In the schedule below, an asterisk (*) indicates that material is omitted before the pages mentioned.

Class Meetings. We meet on Monday from 4:00 – 5:40 pm in room 115 and will take a short break during the middle of the class period.

Course Overview and Goals. Real property is everywhere in America, which means property law is everywhere. With the evolution of our economy from agriculture/agrarian to industrial to service/information, real property is still a critical building block of our economy. During a global pandemic fighting an invisible virus, discussing the viability and validity of bitcoin and cryptocurrency, the world retreated back to their homes. Even as we discuss return to work/remote work policies – you are going to work, live and play in some form of real property – that real property was likely financed in some manner and said financing was secured.

Real property law is a fundamental part of our community and our understanding and respect for one another. The way that common law allowed real property to be creative and sculpted over the centuries and through judicial decisions – also allows us to see the reflection of who we are as a human race – what kind of society we live in – and what it means to live under the rule of law.

The basic characteristics and concepts of real property law occur throughout other fields of law. If you can appreciate the importance of possession and priority and how real property addresses those concepts in varying fact patterns, then you will be in an excellent position to predict how other areas of the law address them, as well.

Real property law is a substantive piece of practice for many other areas of law where you may like to eventually practice – including corporate law, real estate law, family law, environmental law, intellectual property, just for some examples - or for plain practical purposes – it is on the bar exam!

There are also practical applications of utilizing real property law for all of you and your burgeoning legal careers. Understanding real property law will accelerate your opportunity in a variety of practice settings whether it is the “big law” firm advising a real estate investment firm, the small law firm representing individuals with property issues, the compliance department of a bank trying to follow the law, the legal aid society protecting the rights of low-income borrowers, or the offices of a federal or governmental regulatory agency seeking to enforce the law (HUD, DOJ, CFPB, etc.)

A lawyer does more than tell a client what the law is. A lawyer also explains to the client ambiguities in the law, identifies possible course of action, articulates risk/reward tradeoffs, and makes recommendations based on the client’s particular concerns (and ethical constraints). Finally, you will hear me repeat over the next few months – “Practice Pointer” – because I want to make sure that we take the black letter law, mold it into practical application through our cases, and be able to make an addition to your intellectual arsenal.

Expectations.

I take volunteers to go through the Problems in each class. The expectation is that when you volunteer, you will have a *written* answer – one that you wrote prior to coming to class. I will notate who volunteers during each class, so everyone has an opportunity to volunteer.

I encourage everyone to collaborate, study together in preparing for class and engage in class discussion; however, the final examination is a floating exam and must be completed on your own. Our classroom environment is built upon mutual respect, trust, and honesty – the same as the goals for our profession.

Chapter 1

Contracts for the Sale of Land3-96, *113-116

Chapter 2

Deeds and Titles131-184

Chapter 1 (again)

Introduction to Mortgage Financing117-130

Chapter 3

The absolute deed as a mortgage285-308

The installment land contract309-369

The negative covenant as a mortgage370-372

Chapter 4

Theories of title and mortgage priority vs. leases..... 373-412

Receiverships 413-428

Waste 429-438

Mortgagee liability for environmental problems 438-450

Insurance and real estate taxes 451-476

Chapter 5

Transfer by the mortgagor477-499

Restrictions on Transfer by Mortgagor500-515

Transfers of Mortgagees Interest516-591

Discharge of Debt and Mortgage592-629

Loss Mitigation.....630-668

Chapter 6 (Read All)

Acceleration669-693

Foreclosure and parties694-722

Power of sale foreclosure724-795

Statutory redemption800-820

Bankruptcy871-968

Chapter 7 (Read All)

I. Attendance Policy at Cumberland:

For Fall 2021, any student who is absent from class for good cause shall notify the Associate Dean and the professor within 24 hours of the missed class and provide the cause. The Associate Dean, in her sole discretion, shall have authority to excuse an absence for good cause so that it will not count against the number of permitted class absences prescribed by Academic Standard 207. “Absent for good cause” means absence due to COVID-related illness, or quarantine, absence due to exigent circumstances as determined by the Associate Dean, absence due to bereavement, and absence related to pregnancy, childbirth, and adoption. All other absences remain unexcused pursuant to Academic Standard 207. The Associate Dean will determine at the end of the semester, and only after the student has reached the maximum number of absences allowed in a course, whether a particular absence is excused. An excused absence does not relieve a student of responsibility for the academic work in the class missed. Additionally, in the event that a student tests positive for COVID he or she must email COVID19health@samford.edu upon receipt of the positive result and copy the Associate Dean. Without timely notification to COVID19health and the Associate Dean, a student’s absences may not be excused.

II. Statement regarding online or remote delivery if the course must transition to a digital learning format

The 21-22 academic year will see the return of many regular activities and operations; however, as the presence of Covid-19 is monitored on campus and within our community, state law, local health orders, and CDC guidance could affect the course activities and modality (including a change to an emergency remote or online course). Students must attend class and check email and Canvas regularly for any important updates from the course instructor and/or university administration.

There is a possibility we may have to conduct class via an internet medium – Teams, Webex, etc. In the event that happens, Ms. Uelman will send an email to the class and provide a calendar invite with a link.

III. Technology needs

Because of the possibility of a student needing to participate in the course virtually at some point during the semester, all students should have the following technology available to them:

- A Windows 10 or Macintosh desktop or laptop computer; although Chromebooks and mobile devices are capable of accessing the Canvas learning management system, they may not be compatible with certain third-party software.
- A web cam (built into most modern laptops)
- A microphone and speakers, headphones, or earbuds (also built into most modern laptops)
- The most recent version of the Chrome or Firefox Web browser; the Safari browser can be particularly problematic when accessing online courses.
- A stable Internet connection capable of at least 2 Mbps upstream and 5 Mbps downstream. Students may test the speed of their connection at <http://speedtest.net>.
- Capable of running Exam4 software by Extegrity.

IV. Emergency Readiness

RAVE is the primary method of communication used by Samford University during a campus emergency. If you have not registered for RAVE alerts, please use the link provided below and go to the My Contact Information box on your Portal homepage to update your RAVE Emergency Alert Information. <https://connect.samford.edu/group/mycampus/student>

Samford University utilizes Alert Samford for desktop, laptop, tablet, and mobile devices to provide students with information, procedures, and links about what to do in the event of a variety of emergency situations that could occur on our campus. If you do not already have the Alert Samford app on your mobile device, laptop, desktop, or tablet, please click on this link <https://connect.samford.edu/group/mycampus/student> and go to the Emergency Information box on your Portal homepage for instructions on downloading the App. Once you have downloaded the App, please take time to review the information provided, it is important that you know what to do in the case of a campus emergency.

V. Americans with Disabilities Act

Students with disabilities who wish to request accommodations should register with Disability Resources (205-726-4078, disability@samford.edu, Dwight Beeson Hall Room 103 and 104, www.samford.edu/dr). Students who are registered with Disability Resources are responsible for scheduling a meeting with Cumberland's Director of Student Services and ADA Compliance, Tona Hitson, (205-726-2222, thitson@samford.edu, Memory Leake Robinson Hall Room 124), to discuss how their approved accommodations will apply to this course. Accommodations will not be implemented until students have met with her to review their accommodation letter.

Classroom accommodations are not retroactive; therefore, prompt attention to the process is advisable. Students who wish to receive examination accommodations must be approved for accommodations by University Disability Resources and notify Tona Hitson, Cumberland's Director of Student Services and ADA Compliance, no later than thirty (30) days prior to the last day of classes.

Because the process of evaluating and documenting a student's need for accommodations can be time consuming, students are encouraged to contact Disability Resources early in the semester in order to ensure the completion of all necessary paperwork by the aforementioned deadline. Accommodations received after the deadline will be processed for the following semester

VI. Title IX

Samford University is committed to the creation and maintenance of a safe learning environment for students and the University community. In accordance with federal policy all University employees are required to report information related to discrimination and harassment which includes, but is not limited to, sexual assault, relationship violence, stalking, and sexual harassment. For this reason, if you tell a faculty member about a situation of sexual harassment or sexual violence or other related misconduct, the faculty member must share that information with the University Title IX Coordinator. If you wish to speak with an employee who is not required to report information, you can find a list of confidential resources listed in the online student handbook and the Title IX website or contact the Counseling Center at 205-726-4083 or the Office of Spiritual Life at 205-726-2825.

Note: The first time you schedule an appointment, you will need to create an account, using your Samford email and password.

Inclement Weather

Inclement weather or other events beyond the control of the University that might cause risk or danger to students, faculty and staff may occasionally result in changes to normal University operations, including cancellation of classes or events; the class schedule and/or calendar may be adjusted.

Counseling Services

Students may benefit from meeting with a counselor at some point to discuss difficult issues, gain insight for dealing with stress, or to process and understand events from the past. When a need for counseling arises, students should contact Counseling Services & Wellness Programs. On-site appointments are prepaid through student fees and there is no extra cost to the student. To schedule an appointment, please email counseling@samford.edu, call 205-726-2065, or stop by Dwight Beeson Hall (DBH) room 203.

Mask requirements within the educational setting:

It is very difficult to differentiate vaccination status within the more interpersonal and intimate indoor educational settings such as the classroom. Therefore, masking is required for all participants in this course, regardless of vaccination status. This small act supports our calling to respect and serve others within the Samford community and may reduce academic disruption in this course. Failure to comply with instructions to wear a mask from a member of the Samford faculty could result in an Honor Code warning letter and/or violation.

Updated: August 9, 2021