

**Property (H)**  
**FALL 2009**  
**REVISED ASSIGNMENT SHEET**

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**Ground Rules: Please Read These Carefully Before the First Class**

**Property is a fascinating subject that will help you learn basic legal concepts and methods of analysis. The wide variety of topics covered makes it especially interesting. Parts of it are conceptual and theoretical. Parts of it relate to everyday problems like landlord-tenant law or the sale of property. You'll learn a range of skills – reading cases, applying statutes, and solving problems.**

**Our time in the classroom is essential to learning this material. You'll learn it best if during each session you have a setting that allows you to focus on the materials without distractions. I have set the following ground rules to help provide you with an undistracted setting. *Please make sure you are familiar with these rules and any others I mention in class.***

**You can find them on the course web site:**

*<http://osaka.law.miami.edu/~schnably/courses.html>*

**Look for the section on “Ground Rules.” (You will also find information on the exam and grading on the course web site.)**

**Books & Supplements**

**Mandatory:**

- (1) DUKEMINER, KRIER, ET AL., PROPERTY (6th ed. 2006) (referred to in this Assignment Sheet as “CB”)
- (2) LAURENCE & MINZNER, A STUDENT'S GUIDE TO ESTATES IN LAND AND FUTURE INTERESTS (2d ed.1993) (referred to in this Assignment Sheet as “CB”)
- (3) Supplementary materials from the Distribution Center (referred to in this Assignment Sheet as “Supp.”)

**Optional (only if you want to read more; available at the Reserve Desk in the Library):**

WILLIAM B. STOEBOCK & DALE A. WHITMAN, THE LAW OF PROPERTY (2000)

## Syllabus

### I. INTRODUCTION & BASIC CONCEPTS

#### A. The Right to Exclude

1. *Jacque v. Steenberg Homes, Inc. & State v. Shack*

CB 86-93

Supp. 1-8

2. *The Florida Migrant Farmworker Statute*

Supp. 9-17

1. *What would the result be in State v. Shack in Florida? Would Shack and Te-  
jeras have access to the farm? Under what conditions?*

2. *If the statute would grant access to Shack and Tejeras, but Tedesco were to  
deny it, could they file a complaint with the Department of Health? If not, where could  
they seek relief?*

3. *Suppose that after a resident of a migrant labor camp complained to a reporter  
that the owner was not permitting health care providers and legal services attorneys to  
visit him at the labor camp, the owner fired him and told him to leave. Would the farm-  
worker have any recourse? Would it matter if the farmworker had been drinking in his  
room in violation of a rule (one that was routinely violated without consequence?)*

#### B. What is "Property"?:

1. *Moore v. Regents of the University of California*

CB 69-86

2. Diplomas and Licenses

CB 321-335

#### C. Relativity of Title: *Tapscott v. Lessee of Cobbs*

Supp. 18-22

Supp. 23

Supp. 24 (optional)

### II. Transfers of Ownership: Voluntary & Involuntary

#### A. Involuntary Transfers

1. Acquisition by Find

CB 95-112

2. Eminent Domain and Just Compensation

CB 941-959

3. Adverse Possession

- a. In General

CB 112-144

- b. The Florida Adverse Possession Statute  
Supp. 25-36 (Florida Adverse Possession Statute)

B. Voluntary Transfers

1. Gifts

CB 157-172

2. The Sale of Land

a. Introduction

CB 453-463 (*Read this material on your own. You may ignore the second and third paragraphs of Question 1 on CB 462.*)

b. The Duty to Disclose and the Warranty of Habitability

i. The Duty to Disclose

CB 484-494

Supp. 37 (Fla. Stat. ch. 689.25)

Supp. 38-42 (optional)

ii. The Warranty of Habitability or Quality

CB 494-502

iii. Florida Bar Exam Question

Supp. 43

c. Equitable Conversion

483-484

Supp. 44-45 (Questions on Equitable Conversion)

d. Deeds

CB 513-518

e. Mortgages

CB 541-558

Supp. 46-53 (Home Building & Loan Ass'n v. Blaisdell), 54-57

Supp. 58-69 (optional)

3. Recording Statutes and the Chain of Title

Supp. 70-74 (*We will discuss the problems at Supp. 70-71 in class in light of the reading*)  
CB 559-565, CB 580-583, CB 603-604 (Notes 1 & 2), CB 532 (Estoppel  
by Deed)

CB 608-612

### III. THE SYSTEM OF ESTATES AND FUTURE INTERESTS

#### A. Background and Social Context

CB 173-181 (*Note: read this material on your own; we will not discuss it in class.*)

#### B. Present Possessory Estates and Corresponding Future Interests

*As you read the material below, consider the grants at Supp. 75-76, which we will discuss in class.*

##### 1. The Fee Simple

CB 181-186  
Guide 1-5, 12-13(Section C);  
Supp. 88 (Fla. Stat. § 689.10)

##### 2. The Fee Tail

Guide 6-8, 14-15  
CB 186-189  
Supp. 90 (Fla. Stat. § 689.14)

##### 3. The Life Estate

Guide 8-10; 16-17  
CB 189-206 (through Section E), CB 225-227

##### 4. Defeasible Fees

Guide 10-12, 17-21  
CB 195-196, 206-208, 215-224, 227 (2 & 3)  
Supp. 90-91 (Fla. Stat. § 689.18)  
Supp. 100-105 (optional)

##### 5. Review

Guide 22-24

#### C. Future Interests in a Grantee: Remainders and Executory Interests

##### 1. Remainders

CB 227-232, 240-244  
Guide 30-48  
Guide ch. 3; 118-123

##### 2. Executory Interests and the Statute of Uses

CB 233-240  
Guide ch. 4 & 124-126  
Supp. 94 (Fla. Stat. § 689.17), Supp. 106-109  
Supp. 110-112 (*Broadway National Bank v. Adams*)

D. The Rule Against Perpetuities

1. Mechanics

*As you read the material below, consider the Perpetuities Problems at Supp.113. We will discuss them in class.*

CB 244-251

Guide 126-137

Supp. 114-117

Supp. 90-91 (Fla. Stat. § 689.18) (review)

Supp. 118-120 (optional)

2. Scope/Reform

CB 251-262

Supp. 121-124; Supp. 89-90 (§ 689.13); 92-96 (§ 689.225); Supp. 125-126 (optional)

E. Concurrent Estates

1. In General

CB 275-284

Supp. 90 (Fla. Stat. § 689.15)

2. Tenancy by the Entireties

CB 312-320

**IV. RESIDENTIAL LANDLORD-TENANT LAW**

A. The Creation and Characteristics of the Landlord Tenant Relationship

CB 363-365

B. Tenants' Rights Regarding Occupancy

1. Assignment and Sublease

CB 388-402

Supp. 127

2. The Landlord's Duty to Mitigate (or Not)

CB 401 (Note 3) (review)

Supp. 146 (Fla. Stat. § 83.595)

3. Implied and Statutory Warranties of Habitability

a. Common Law

CB 430-439, 441-444

- b. Statutory Regulation of Residential Tenancies
  - Supp. 128-151 (Florida Landlord Tenant Statute) (*focus on Part II, Residential Tenancies, Supp. 135-151*)
  - Supp. 152-153 (Uniform Residential Landlord & Tenant Act)
  - Supp. 154-202 (Miami-Dade County and City of Miami Housing Codes)
  - Supp. 203-205 (Questions 1-5 on the Florida Residential Landlord-Tenant Statute)
- c. Retaliatory Conduct
  - CB 439-440
  - Supp. 205 (Question 6), Supp. 206-213, 214-232 (you may skim Supp. 218-232)

**V. “PRIVATE” REGULATION OF LAND USE: EASEMENTS, COVENANTS, AND SERVITUDES**

- A. Easements
  - 1. Overview
    - CB 667-677 (through Note: Licenses), 696-700, 736-740
  - 2. Scope
    - CB 716-725
- B. Covenants Running with the Land
  - 1. Overview/Historical Background
    - CB 740-750
  - 2. Creation and Application
    - CB 750-772
  - 3. Scope
    - CB 773-786
  - 4. Termination
    - CB 790-798