REAL ESTATE TRANSACTIONS (Law 5858)

SKILLS TRAINING IN REAL ESTATE TRANSACTIONS (Law 5859)

Prof. Wilson Freyermuth
Fall Semester 2017
MT 3:30-4:20, Room 4 (Law 5858)
R 3:30-4:20, Room 4 (Law 5859)
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Course Information and Policies

TEXT AND MATERIALS: The required casebook is GRANT S. NELSON, DALE A. WHITMAN, ANN M. BURKHART, AND R. WILSON FREYERMUTH, REAL ESTATE TRANSFER, FINANCE AND DEVELOPMENT (9th ed. 2015). [Note: This is the same text as for the Real Estate Finance class.] For many assignments, I will provide supplemental reading which will be posted on the course website.

COURSE OF STUDY AND STUDY MATERIALS: The course focus on the system and process of land transfer—deeds, the recording system, the process of title investigation, the means of title assurance, the process of contracting for the sale of land, performance of the contract, and remedies for breach. The course will also provide some coverage of common interest development (e.g., condominiums, subdivisions).

The best hornbook is WILLIAM B. STOEBUCK & DALE A. WHITMAN, THE LAW OF PROPERTY (3th ed. 2000), of which the library has multiple copies on reserve. There is also a study guide that is part of West Academic’s “Black Letter” series, GRANT S. NELSON, DALE A. WHITMAN, ANN M. BURKHART & R. WILSON FREYERMUTH, LAND TRANSACTIONS AND FINANCE (5th ed. 2016). NOTE: Don’t buy a copy of it! While the Black Letter is a very helpful companion to the casebook, the full text of the Black Letter is available to you for free as part of the West “Study Aids Subscription” that is
available to you through the law library. You can access it through the “Study Aids Subscription” link on the library’s Westlaw log-in screen.

**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.

In the Real Estate Transactions course, students will:

- learn the relevant provisions of state and federal law governing the system and process of land transfer as well as those governing the creation and enforcement of contracts for the purchase and sale of real estate
- become familiar with the identity, roles, and interests of the various participants in a real estate transaction (e.g., brokers, home inspectors, mortgage lenders, title insurers, escrow agents, lawyers)
- become familiar with the “due diligence” process associated with a purchaser’s decision to enter into and/or perform a contract to purchase real estate
- become familiar with the structure and content of commonly used purchase and sale form agreements and how such agreements provide the legal infrastructure for the purchaser’s due diligence investigation, and
- gain knowledge useful for passing the Real Property portion of the bar examination, which includes coverage of liens and mortgage law.

Assessment in the Real Estate Transactions course will be SUMMATIVE in nature (a final exam, discussed further below).

In addition, students enrolled in the Skills Training course will:

- develop skills in the review, revision, and drafting of transactional legal documents
- learn how to review title to a parcel of land and other title-related documents such as surveys, title insurance commitments, and title insurance policies;
- participate in negotiation of hypothetical transactions (and the drafting of transactional legal documents based upon those negotiations); and
- learn the appropriate (and inappropriate) uses of form documents.

Assessment in the Skills Training course will be FORMATIVE and will consist of four graded skills-based assignments including negotiation, title review, document review, document drafting and revision (as well as one or more ungraded “completion” exercises).

**ATTENDANCE POLICY:** According to American Bar Association accreditation guidelines, class attendance is required and expected of all students. At the beginning of each class session, I will circulate a class roster on which students will note their
attendance. Any student that misses more than eight (8) regularly scheduled classes during the semester (regardless of the reasons for those absences) will be withdrawn from the course. Please be present and ready to begin class promptly at 3:30 p.m.

From time to time, you may have to miss a class because of illness, family responsibilities, job interviews, or the like. I appreciate it when you can provide me with prior notice of your anticipated absence (an e-mail message is fine) or, in cases of emergency when notice prior to class is impossible, as promptly as possible afterwards. [In practice, clients and colleagues will expect such courtesy, so I encourage you to get in the habit of providing notice when you must miss class.]

Keep in mind (for this class and others) that many of you will need one or more of your professors to provide valuable references for you in the future — whether for the bar examiners or for future employers. If you are present and prepared for class discussion, and provide your professors with prior notice on the rare occasions when you must be absent, your professors will take note of your diligence and discipline, and will respond to inquiries by observing how diligently and seriously you pursued your studies. [Correspondingly, if you are often absent without explanation or excuse, your professors take note of that too.]

**COURSE GRADE:** Final grades in Real Estate Finance (Law 5858) will be based upon the following:

A. **Class Participation.** Participation in class discussion is encouraged and expected. I reserve the right to add up to two (2) points to a student’s final course average for consistent and exceptional class participation. I also reserve the right to subtract up to two (2) points from a student’s final course grade for repeated unpreparedness.

B. **Final Exam.** The final exam will be an in-class final exam consisting primarily of both multiple choice, short answer, and essay questions.

Final grades in Skills Training in Real Estate Transactions (Law 5859) will be based upon performance on a set of negotiation, drafting, document review, and writing assignments. More details regarding these assignments will be provided during the first class meeting for Law 5859 on Thursday, August 24. Students registered in Skills Training in Real Estate Finance will receive separate grades for the lecture course (Law 5858) and the skills training course (Law 5859).

**INTERACTION WITH STUDENTS:** I maintain an open-door policy as far as student questions and concerns. I do not maintain regular “office hours,” as I am in my office much of the time during most weekdays. If you have a question or concern about the course or law school, and I am in my office, you are welcome to come in and chat about your question or concern. If your schedule is such that you need to set up a specific appointment, that is
fine too. Many students find it easy to communicate with me by e-mail (I often check and respond to my e-mail in the evening, when I am at home): my e-mail address is freyermuthr@missouri.edu and you are welcome to raise questions or concerns by e-mail if it is convenient for you.

COMMUNICATION USING THE WEBPAGE: I will maintain a webpage for this course. You can reach this page via the following URL:

http://www.law.missouri.edu/freyermuth/ret/fall2017/index.html

Each Friday, I will post reading assignments for the following week’s classes on the Web page. [Past assignments are archived on the webpage as well.] In addition, I will often post a new hypothetical and/or discussion questions (i.e., ones not included in the casebook) for the next class period’s discussion. Further, I will sometimes use the Web page to post a memorandum to the class that clarifies a point of confusion that arose in class discussion (I refer to these memos euphemistically as “damage control” memos), or to pass along to the entire class a question (and answer) that a student posed after class or in my office. Finally, any messages regarding the postponing or rescheduling of classes will be posted to the course Web page. **You should visit the webpage each day to check for new information about the assignments for the following day’s class meeting and/or future class meetings.**

ACADEMIC INTEGRITY: Academic integrity is fundamental to the activities and principles of the School of Law. All members of the law school community must be confident that each person’s work has been responsibly and honorably acquired, developed, and presented. 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 School of Law’s Honor Code as extremely serious matters. Sanctions for such a breach may include academic sanctions from me (including failing the course for any violation) as well as disciplinary sanctions from the School (ranging from probation to expulsion). If you have any doubt about whether your work is or would be consistent with the Honor Code, consult me.

COURSE COVERAGE: Following is a syllabus listing the topics we will cover and the anticipated order in which we will cover them. The page numbers are tentative; as the semester proceeds, I may choose to delete coverage of some of the listed pages and/or provide supplementary materials. As a result, you should always check the webpage for the official assignments as they are posted each week.

The assignment for the first class is posted on the course website. For subsequent classes, I will post on the course website a memo containing the assignments for the following week’s classes.
# Syllabus

## I. Real Estate Brokerage

### 3-24

## II. The Transfer of Land

### A. Deeds

### 131-153

### B. Land Descriptions

### 153-161

### C. The Delivery Requirement

### 161-183

## III. Title Issues and Title Protection

### A. Title Search and the Recording System

### 222-258

### B. Contracting for Title Protection

#### 1. Marketable Title, Insurable Title, and Title Standards in the Purchase Contract

#### 83-96

#### 2. Deed Warranties (Covenants for Title)

#### 208-222

#### 3. Title Insurance

#### 258-275

## IV. Other Issues in Contracting for the Sale of Land

### A. Equitable Conversion, Risk of Loss, Insurance

### 96-113

### B. Time for Performance and the Tender Requirement

### 73-83

### C. Other Contingencies

#### 1. Financing

#### 113-123

#### 2. Physical Condition of Improvements

#### 183-208

#### 3. Other

#### TBA

### D. Remedies

### 45-73

### E. Formation Issues

#### 1. Statute of Frauds/Part Performance

#### 24-45

#### 2. Letters of Intent

#### TBA

## IV. Closing and RESPA

### TBA

## V. Common Interest Development

### A. Condominiums, Cooperatives, and Subdivisions

### 1201-1219

### B. Developer vs. Purchaser Issues

### 1229-1256

### C. Homeowners Associations

### TBA