

**Runstad Department of Real Estate  
College of Built Environments  
University of Washington**

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**RE 515A - REAL ESTATE LAW - Syllabus**

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**Office Hours:** To schedule an appointment, contact instructor by phone, email or after class.

Course website: <https://canvas.uw.edu> (registered students should be able to see the course)

The instructors are practicing attorneys in Seattle. Mr. Osborne is Of Counsel to Foster Garvey, PC and Mr. Fandel is a partner at Stoel Rives LLP. Their biographical information can be viewed at [www.foster.com](http://www.foster.com) and [www.stoel.com](http://www.stoel.com).

**Course Overview**

The course is intended to provide an overview of legal framework applicable to the real estate industry with a specific focus on three principal types of real estate transactions: buying and selling real estate, commercial leases, and financings secured by real estate. In addition, the course includes a discussion of governmental regulation of real estate, with an emphasis on land use controls, environmental concerns and housing regulation. The course begins with the identification of the sources of real estate law and an overview of the U.S. legal system. A general description of typical real estate transactions and the role of brokers is explained. The course then focuses on legal issues arising in the most common commercial real estate transactions: purchase and sales, leases and mortgage financings. The review of these transactions also introduces students to the role of title insurance in real estate transactions, due diligence practices, issues involved in entity selection for real estate development and investment, and the role of casualty and liability insurance in real estate ownership and development. Finally, the course examines regulatory impacts on real estate, such as environmental matters, zoning and land use regulation, broker licensing requirements, fair housing laws, eminent domain and taxation. Throughout the course, current issues involving real estate are examined to emphasize how a constantly-changing political and legal framework affects real estate transactions.

## Course Objectives

The course is intended to provide students with knowledge of the legal framework in which the real estate industry operates and to provide non-lawyer real estate professionals a general understanding of, and the ability to recognize, legal issues affecting the acquisition, development, ownership and operation of real estate, including:

1. Nature of property interests, including ownership, co-ownership, leasehold interests, present or future interests, easements and view, mineral and air rights;
2. How disputes arising in real estate transactions are resolved;
3. The steps necessary to complete real estate transactions, including buying, selling, leasing and financing residential and commercial property, starting with due diligence through completion of the transaction;
4. Regulation of the real estate industry by local, state and federal authorities, including landlord/tenant relations, land sale disclosure requirements, lender and broker obligations and licensing requirements; and
5. The effect of government laws and regulations—including local planning and zoning efforts, environmental laws, subdivision requirements, impositions of exactions and impact fees, and historical and conservation regulations--on real estate utilization and development.

## Required Text

George Lefcoe, *Real Estate Transactions, Development and Finance* (Sixth Edition, 2009)

## Other Course Materials

The text will be supplemented from time to time with additional reading materials. Generally, supplemental materials will be made available in electronic format downloadable to individual computers.

## Course Requirements

Students are expected to:

1. Attend and participate in class activities – there will not be a sign-in sheet or roll call, but students are expected to participate in class discussions and participation is not possible without attendance. Remote learning makes interaction somewhat more complicated, but interaction is encouraged.
2. Read in advance the required text and supplemental materials and be prepared to discuss these materials in class – there is a significant amount of reading for most classes and students

should attend class even if they have not read the materials, since the material covered in class is not duplicative of the text materials.

3. Complete assignments in a timely manner. Unless there are extraordinary circumstances, students are expected to turn in their assignments on canvas the day they are due at the beginning of the class. Late assignment submissions will not be accepted unless there is a verifiable emergency, with the student being required to provide evidence. Any assignment extensions must be approved in advance. Due dates for assignments will be given. There will be a final exam for the course. This will be scheduled consistent with the quarter's final exam week, March 14 – 18, 2022 to facilitate timely grading.

Between the text assignments and supplemental materials, students should anticipate a significant amount of required reading material in preparation for each class.

### **Grading**

Students' grades are based on: (i) class engagement; (ii) regular assignments and periodic quizzes throughout the quarter; and (iii) a final exam. The final exam will be a combination of multiple choice and very short essay questions. Grading weights will be:

- 15% class engagement;
- 40% results from assignments and quizzes [Note-quizzes and assignments will be posted on Canvas and will be "open-book"]; and
- 45% final exam.

Grades are on a four-point scale. Grading is on a "curve" measuring the performance of students relative to one another. Grades below 2.7 indicate a demonstrable lack of understanding of the subject matter. Because grading is on a curve, there will be relatively few high grades and, hopefully, relatively few low grades.

### **Class Attendance**

It is recommended that students attend the course on a regular basis. Students will benefit from group discussions and sharing of different perspectives. Depending upon classroom resources, the class may be recorded and, if so, will be made available to members of the class.

### **Class Etiquette**

To facilitate a good learning environment, please observe the following:

- Be punctual and do not cause disruption if you come late in class or need to step away for a minute. Although it is contemplated there will be in person classes if there are zoom presentations, make certain you are muted, and your camera is off.
- Cell phones should be on silent mode.
- Be respectful of other's opinions.
- If you need to leave the room, please do so as quietly as possible. If you need to leave the room in a virtual classroom, make sure your video and microphone are turned off.

- You cannot record the class without the instructor’s permission. Recordings are for the exclusive use of the student making the recording and any permission granted is conditioned upon the understanding and the promise of the student the recording will not be shared with any other person or posed on any media website.

### **In-Class Instruction**

This class is conducted in-person and masked in accordance with the UW Masking policy. Students are expected to participate in class to fully benefit from course activities and meet the course’s learning objectives. Students should only register for this class if they are able to attend in-person and masked.

To protect their fellow students, faculty, and staff, students who feel ill or exhibit symptoms consistent with COVID-19 should not come to class and seek immediate testing, the most convenient may be the [Husky Testing Program](#). If you test positive contact the University of Washington [UW COVID-19 Response and Prevention Team](#) at [covidehc@uw.edu](mailto:covidehc@uw.edu) or 206 616-3344. When absent, it is the responsibility of the student to inform the instructor in advance (or as close to the class period as possible in the case of an unexpected absence), and to request appropriate make-up work. The instructor has the responsibility to determine if make-up work is possible and/or to modify assignment or course grading. For chronic absences, the instructor may award an incomplete grade after the 8th week, or recommend the student contact their academic adviser to consider a hardship withdrawal (known as a Registrar Drop).

You may be eligible for an accommodation administered by the Disability Resources for Students (DRS) to take classes remotely if you are a student who is

- a. Immunocompromised
- b. Experiencing other diagnosed physical or mental health conditions that preclude you from participating in class in person.

**If you think you may qualify for any type of formal accommodation, we encourage you to visit the [Disability Resources for Students \(DRS\)](#) and apply by completing the necessary steps as soon as possible.** Please note that it can take 4-6 weeks to get approvals through DRS, so you need to submit any requests well in advance of the beginning of the quarter to have the best outcome.”

### **Virtual (zoom) classroom- Etiquette**

It is possible we may have to conduct classes in a virtual classroom via Zoom. If this occurs, please observe the following guidelines. Zoom is integrated in canvas and you should be able to access each class through canvas. Please make sure your video/audio works properly before class. I would recommend you find a quiet place during the class as you will need to unmute for the breakout room when we have them and possibly ask questions. If you have a busy background you can use a professional virtual background. Additionally, please dress for the course as if you are in the classroom – so no pajamas please. If you experience technical issues please reach out to: [be-help@uw.edu](mailto:be-help@uw.edu) or **206-543-8531**

During class, please follow these guidelines:

- Muting and unmuting your mic: Your microphone is set on mute when you enter the virtual classroom. Please unmute yourself to speak. Mute your mic when you are not speaking to eliminate ambient feedback and other unwanted background noises.
- Start Video: Your video is off by default at the start of the class. Please start your video when class starts and keep the camera on during the entire class, especially when you are speaking. For class engagement, it is important that we can see each other. If you are interrupted during class or need to step away, please turn off your video but restart it as soon as you return.
- Chat: We will not be using this function in this course since it can be distracting. If you have questions or comments, please unmute your mic.
- Raise Hand: During class, you can use the Raise Hand button to speak but my preference is that you turn off your microphone when you want to speak.
- Share Screen: When presenting using a PowerPoint or another application, share the application only rather than your desktop to protect your privacy.

### **Academic Integrity**

Students are expected to adhere to the UW's code of conduct. The student conduct code requires students to practice "high standards of academic and professional honesty and integrity." Students who are suspected of cheating or plagiarism will be confronted directly by the instructor, who will inform the appropriate parties within the Department, College, and University in order to determine if the student's actions warrant disciplinary action, which may include probation or dismissal. If you have any doubt about whether a specific use of material constitutes plagiarism or whether it is appropriate to work with others on a project or assignment, ask! The University's Student Conduct Code is Washington Administrative Code 478-121:

<http://app.leg.wa.gov/WAC/default.aspx?cite=478-121> Also see:

<https://depts.washington.edu/grading/pdf/AcademicResponsibility.pdf>

### **Student Safety**

Students are advised to refer to UW policies and procedures to ensure their safety and security on campus. For more information, go to:

<http://www.washington.edu/safecampus/>

To report threats, seek advice, or get counseling, dial 206-685-SAFE (7233).

### **Disability Accommodation**

The instructors are committed to ensuring learning opportunities for students with disabilities. If you would like to request academic accommodations due to a disability, please contact the office of Disability Resources for Students. If you have a letter from the office of Disability Resources for

Students indicating you have a disability that requires academic accommodations, please present it to either of the instructors so that specific accommodations for this class can be discussed.

### **Religious accommodation policy**

Washington state law requires that UW develop a policy for accommodation of student absences or significant hardship due to reasons of faith or conscience, or for organized religious activities. The UW's policy, including more information about how to request an accommodation, is available at Religious Accommodations Policy (<https://registrar.washington.edu/staffandfaculty/religious-accommodations-policy/>).

Accommodations must be requested within the first two weeks of this course using the Religious Accommodations Request form (<https://registrar.washington.edu/students/religious-accommodations-request/>).

### **Tentative Course Schedule**

The course meets each Tuesday and Thursday in Mary Gates Hall, Room 271, from 10:30 a.m. to 12:20 p.m. during the winter quarter (first class Tuesday, January 4th – last class Thursday, March 10th). Below is a tentative class schedule by study topic. Class topics may (and probably will) change to accommodate any guest presenters, student needs, instructor conflicts and changes in emphasis of the course subject matter. The reading material listed below is tentative and final reading assignments for each class will be posted on Canvas. The instructors will strive to provide reading assignments for at least a week in advance of the class in which the materials will be discussed. Copies of material supplementing the text will also be available on Canvas. The length of virtual classes may vary, but will be scheduled within the time slots for in-class meetings.

**[DETAILED COURSE SCHEDULE APPEARS ON FOLLOWING PAGES]**

<u>Day/Date</u>	<u>General Topic</u>	<u>Text/Reading Material</u> <u>[Other Reading Material May Be Assigned]</u>
Tuesday 1/4/22 SBO	Course introduction: sources of real estate law; overview of the U.S. legal system; and an explanation of estates in land	Text – Chpt. 1, pp. 1-12 (stop at Section B Conflicts of Interest)  Orin Kerr, HOW TO READ A LEGAL OPINION – A GUIDE FOR NEW LAW STUDENTS  U. S. LEGAL SYSTEM  PRESENT AND FUTURE INTERESTS: A GRAPHIC EXPLANATION  Case: <i>Cedar Point Nursery v. Hassid</i>  Osborne, LECTURE NOTES
Thursday 1/6/22 JAF	Brokers: role in real estate transactions; regulatory issues affecting real estate	Text pp. 29-36; 38-57  Fandel - LECTURE NOTES
Tuesday 1/11/22 SBO	Real Estate Purchase & Sale Agreements Part I: legal requirements; letters of intent and the contract process; parties to the agreement; legal descriptions; and more about estates in land	Text: Chpt. 4 – Purchase & Sale Agreements: Statute of Frauds and Parties to the Agreement  Chpt. 18, pp. 361-377 – Surveys, Land Descriptions and Boundary Disputes  Concurrent Estates in Real Property  Thomas Featherston, Jr., HIS, HERS OR THEIR PROPERTY: A PRIMER ON MARITAL PROPERTY LAW IN THE COMMUNITY PROPERTY STATES.  Osborne, LECTURE NOTES  Cases: <i>Pendergrast v. Matichuk</i> <i>Alby v. Banc One</i> <i>Keystone Land v. Xerox</i>
Thursday	Real Estate Purchase & Sale Agreements	Text:

<u>Day/Date</u>	<u>General Topic</u>	<u>Text/Reading Material</u> <u>[Other Reading Material May Be</u> <u>Assigned]</u>
1/13/22 SBO	Part II: negotiation and principal terms; due diligence	Chpt. 5 – Purchase & Sale Agreements: Following the Money Chpt. 6 –Purchase & Sale Agreements: The Subject Property  Cases: <i>16<sup>th</sup> Street Investors v. Morrison</i> Osborne – LECTURE NOTES
Tuesday 1/18/22 SBO	Real Estate Purchase & Sale Agreements Part III: title insurance and the closing process	Text: Chpt. 7 – P&SA – Quality of Seller’s Title Chpt. 14 – Recording Acts Chpt. 15 – Title Insurance Chpt. 16 – Real Estate Closings and Escrows Chpt. 17 – The Deed  Cases: <i>C 1031 Properties v. First American</i> <i>Courchaine v. Commonwealth Title</i>  Osborne – LECTURE NOTES
Thursday 1/20/22 SBO	Real Estate Purchase & Sale Agreements Part IV: remedies for breach	Text: Chpt. 8 – P&SAs: Contract Provisions Regarding Time for Performance Chpt. 9 – P&SAs: Terminating Real Estate Contracts  Cases: <i>Douglas v. Visser</i> <i>Warner v. Design and Build Homes</i>  Osborne – LECTURE NOTES
Tuesday 1/25/22 JAF	Leasing Part I: Landlord-tenant relationships; negotiating leases; and residential versus commercial leases	Fandel – LECTURE NOTES
Thursday 1/27/22 JAF	Leasing Part II: retail, office and industrial leases; and damage, destruction and insurance provisions	Case: <i>Cabelas v. Hawks Prairie</i>  Fandel – LECTURE NOTES
Tuesday 2/1/22 JAF	Leasing Part III: remedies for breach of lease; evictions; and damage claims	Fandel – LECTURE NOTES



**Text/Reading Material**  
**[Other Reading Material May Be**  
**Assigned]**

<b><u>Day/Date</u></b>	<b><u>General Topic</u></b>	
Thursday 2/3/22 SBO	Real Estate Financing Part I: role of financing in real estate acquisition and development; residential and commercial mortgages; and introduction to securitization	Text: Chpt. 10 – Residential Mortgage Lending Chpt. 11 – Commercial Mortgage Lending Chpt. 19 – The Mortgagee’s Interest in the Security Property  Osborne – LECTURE NOTES
Tuesday 2/8/22 SBO	Real Estate Financing Part II: mortgage covenants; and non-recourse financing	Text: Chpt. 12 – Prepayment of Mortgage Loans Chpt. 13 – When the Borrower Sells or Pledges the Mortgaged Property  Osborne – LECTURE NOTES
Thursday 2/10/22 SBO	Real Estate Financing Part III: state and federal regulation; and effects of default, foreclosure and bankruptcy	Text: Chpt. 20 – Mortgagee’s Right to Rents Before and After Foreclosure Chpt. 21 – Mortgage Foreclosure Chpt. 22 – Allocating Foreclosure Sale Proceeds Chpt. 23 – Alternatives to Foreclosure  Osborne – LECTURE NOTES
Tuesday 2/15/22 JAF	Property Ownership: non-possessory and rights of use less than total ownership of real estate (e.g., easements, mineral rights, and air rights)	Fandel – LECTURE NOTES  Cases: <i>Fontainebleau Hotel v. Forty-Five Twenty-Five</i> <i>Bitter Lake Case</i> <i>Pierce v. Northeast Lakeview</i> <i>Collinson v. John L. Scott</i>

Thursday 2/17/22 JAF	Real Estate Development: Land use regulation, zoning and other regulatory issues impacting development	Fandel – LECTURE NOTES
Tuesday 2/22/22 JAF	Construction Issues: role of contractors; and statutory mechanics liens for labor and material	Case: <i>Guillen v. Pearson</i>  Fandel – LECTURE NOTES
Thursday 2/24/22 JAF	Environmental laws & hazardous materials in real estate	Endangered Species Act Critical Habitat Article  Case: <i>Weyerhaeuser vs. US Dep't of Fish &amp; Wildlife</i>  Fandel – LECTURE NOTES
Tuesday 3/1/22 SBO	Public-Private Development: federal and state regulation of real estate development	Text: Chpt. 34 – Public/Private Real Estate Ventures  Regulatory Taking Doctrine in Washington: Now You See It, Now You Don't  Fair Housing Act: FAQ Property Owners, Managers  Osborne – LECTURE NOTES
Thursday 3/3/22 JAF	Common Interest Ownership: condominiums, co-ops, and homeowner associations (HOAs)	Case: <i>SF Apartment Ass'n v. San Francisco</i>  Fandel – LECTURE NOTES
Tuesday 3/8/22 SBO	Real Estate Entity Issues: selection of entity; management and control; overview of taxation of real estate; landowner liability; and theories of trespass, nuisance and adverse possession	Text: Chpt. 18, pp. 378 – 386  Osborne – LECTURE NOTES
Thursday 3/10/22 JAF	Final Review – last day of instruction	*Review materials to be available prior to class*
Monday = Friday 3/14-	**Final Exam to be scheduled**	

