

Seminar: Local Controls, Land Development, Public Rights, and Private Conservation

Professor Zachary Bray
University of Houston Law Center
Monday/Tuesday/Wednesday, 6:00-8:30 p.m.
Course Number 7397
Summer 2014

Texts

The texts for this seminar will be available to you through Westlaw, Lexis, Hein Online, and SSRN. I will make copies of the readings for the first assignments available for you on the course schedule page and/or a course Blackboard page; after that, I will provide you with citations for the material that we will cover, and you will be responsible for obtaining copies of the material on your own. Beyond the initial class sessions, material that we discuss in class will be chosen by me in part for its relevance to various seminar participants' writing topics, so that our in-class work enhances your individual writing projects. Updated versions of this syllabus will appear with relevant assignment changes. Of course, to satisfy the writing requirement for this course, you will certainly have to obtain and read substantial material related to your topic beyond the assigned materials.

The objectives of this course are for you to learn the rules and doctrines of the law governing local controls, land development, public rights, and private conservation; for you to understand the ethical and professional issues that arise in connection with the relevant law; for you to satisfy the Law Center's writing requirement; and for you to be able to integrate the information you learn in this class with other practical and analytical skills necessary to the practice of law.

Guidelines and Requirements

A. Overview

The seminar on Local Controls, Land Development, Public Rights, and Private Conservation will cover a wide range of substantive issues related to property law, natural resources, land use, land development, and state and local regulation. We will also focus on legal research and writing techniques. The course will be graded primarily on the writing of a seminar paper, written in a style and format suitable for legal academic publication, which will satisfy the Law Center's writing requirement and meet the relevant standards. The course will also be graded on class participation.

B. A Note on the Summer Schedule

The class is currently scheduled to meet regularly during the Summer II session, which runs from June 2 – July 8, 2014. In order to ensure that students have enough time to develop a seminar paper that will satisfy the Law Center's writing requirement during the summer, typically one class per week will be devoted to one-on-one meetings between the instructor and individual students. During these meetings I will provide individual feedback about the progress of your research and paper. For example, on Wednesday of the first week, I will meet with hypothetical Student A about A's project for 20-30 minutes at the beginning of class, followed by Student B, and so on. These individual feedback sessions will be scheduled a class session or two ahead of time.

In addition, and also in order to ensure that students have enough time to develop a seminar paper that will satisfy the Law Center's writing requirement, only a rough draft of the paper will be due at the end of the seminar's regular class meetings in July, at which time students will receive a grade of incomplete. In addition to our ongoing workshop discussions, students will also make a brief final presentation to the class about their research near the end of the seminar's regular class meetings, either in late June or early July.

Furthermore, final drafts of the seminar paper will not be due until early August, at the end of the Law Center's summer schedule, at which time I will enter final grades for this seminar. As with the points above, this requirement is intended to ensure that everyone has enough time to write a good paper over the course of the entire summer. I will meet with students as needed on an individual basis after you turn in your rough drafts, though obviously we will not meet as a class after the end of the Summer II session.

C. Grading, Examination, Class Participation, and Structure

Your grade for this class will be based on your final paper (80% of your grade), plus the rough draft of your paper (10% of your grade), plus your final presentation to the class (10% of your grade). This grade may be modified by one step based on your class participation (e.g., from B to B+, from A to A-), as discussed below. Failure to meet a deadline may result in additional, negative, and potentially increasing grade modifications.

I consider good in-class participation to be anything that helps your classmates learn, or that helps your classmates' writing projects, while indicating your effort to read and understand the assigned material. When I consider whether to make a positive grade modification, I will consider the overall quality, and not merely the quantity, of a student's in-class participation. You will not be penalized for wrong answers unless they evince a lack of preparation. Repeated absences without prior notification or subsequent explanation may be taken as evidence of lack of preparation.

Please arrive promptly with any other assigned reading materials. All students are encouraged to volunteer comments and questions on the readings. In addition, I may call on students randomly to discuss the assigned materials, beginning with the first class session. The frequency and nature of random call will depend in part on the variety and quality of volunteer participation. Many of our classroom sessions will take the form of workshops focusing on your own projects, in order to ensure that everyone has enough time over the summer to write a good paper. This makes attentive class participation particularly important: you are primarily responsible for your own project, but we will learn and work together, and your contribution to the group's success will be taken into account when I consider class participation adjustments.

I will take roll by silently passing around a sheet with a list of names, which you should sign or initial. You will not be permitted to sign the roll sheet for a class on a previous day. Falsifying attendance for yourself or for others is an obvious violation of the Law Center's Honor Code.

Pursuant to the Law Center's policy, you must attend at least 80% of the classes that meet, although you should of course strive to attend every class. If you miss more than 20% of the scheduled classes, I reserve the right to take appropriate disciplinary action, consistent with the Law Center's policies. If a class must be cancelled, a make-up class will be scheduled, consistent with the Law Center's policies.

D. Contact Information and Office Hours

E-Mail: zabray@central.uh.edu

Phone: 713-743-2217

Secretary: Charlette Jefferson

Office: BLB

Office Hours: I will plan to be in my office from 5:00 – 6:00 before class. I realize that many of you have outside commitments, especially during the summer, and as a result any fixed office hours that I set will be inconvenient for some students. So you should feel free to schedule a time for us to meet or speak over the phone beyond these regular office hours. If you wish to do so, please send me an advance e-mail so that we can set a mutually convenient time.

Syllabus

Below is an outline of the material we will cover in the first two class meetings. We will discuss all of the readings for assignment # 1 in the first class. You will be given ample notice of additional assigned readings.

Introductory Assignments

1. Robert C. Ellickson, *Of Coase and Cattle: Dispute Resolution Among Neighbors in Shasta County*, 38 STAN. L. REV. 623 (1986); Margaret Jane Radin, *Property and Personhood*, 34 STAN. L. REV. 957 (1982).
2. Carol Rose, *The Comedy of the Commons: Custom, Commerce, and Inherently Public Property*, 53 U. Chi. L. Rev. 711 (1986); Henry E. Smith, *Community and Custom in Property*, 10 THEORETICAL INQUIRIES IN LAW 5 (2009).