

Real Estate Law
REAL/LGST 804
Spring 2008

Professor Doron Henkin
Office: 1469 Steinberg Hall – Dietrich Hall
DHenkin@marvinhenkin.com

The Teaching Assistant for this class is Stacy Sher. Stacyes@gmail.com. She will hold office hours for class questions and projects Tuesday and Thursdays from 1230pm to 2pm. If you cannot come during this time please e-mail her to set up an alternative time. If you want to meet with me (Doron Henkin), I will generally be available Tuesdays and Thursdays from 9:15 to 10:20.

Texts: 1) George Lefcoe, Real Estate Transactions, 5th ed.; 2) Additional Items as posted to Web Cafe, (3) Talamo, The Real Estate Dictionary, fourth edition (purely optional-not mandatory).

Course description: This course examines the legal issues of real estate with an emphasis on commercial transactions. The main topics covered are acquisition, regulation, construction and permanent financing, development and management aspects. As of this writing (I reserve the right to change this as the semester goes forward), grades in this class will be based on: some number of short quizzes (40% -- with your lowest quiz score or one missed quiz dropped from the average); two longer tests (25% each), and class participation (10%) [with instructor discretion to weight more heavily for students with excellent class participation]. As of this time, I am not planning to have student writing assignments for the class, but I reserve the right to change my mind and thereby amend the above schedule.

IF YOU DECIDE TO DROP THE CLASS YOU MUST DO SO BEFORE THE FIRST QUIZ/TEST--no exceptions! Absent extraordinary circumstances there will be NO MAKE UPS. Job interviews **do not** as qualify as an emergency.

Assignments: Read and be prepared to discuss the assigned pages in the texts by the date indicated. Class attendance and participation is expected.

NOTE: At times that are hard for me to predict, I will have court appearance dates that will interfere with the class schedule. This may lead to the postponing of test or exam dates, so you will have to allow for that possibility in your own scheduling.

I. Acquisition of the Asset

January 17 Class 1: Introduction

January 22 Class 2 (and Choice of Entity Discussion will Extend into Class 3)

(1) Case for Discussion: Web Cafe: Delaware Nation v. Commonwealth of Pennsylvania; (2) Choice of Entity: Lefcoe 743-763; (3) Web Cafe: Selection of

the Ownership Entity; (4) Web Cafe: State Tax Pitfalls of LLC's; (5) Summary Chart Posted to Web Café of Entity Selection Matters

January 24 Class 3: Completion of Discussion on Choice of Entity

Brokers:

Web Cafe: Cases: Snipes v. Powell & Associates; Thomson v. McGinnis; Lefcoe pp. 23-39, 42-57; OPTIONAL pp. 39-42, 57-59

January 29 and January 31: Classes 4 and 5: Land Use and Zoning Parts 1 and 2

January 29: Class 4

First Quiz (not more than 15 minutes): Covers materials through Class 3.

Lefcoe pp. 877-883, 891-913; OPTIONAL 883-889

Web Cafe Case: Tahoe-Sierra Preservation Council v. Tahoe Regional Planning Agency

January 31: Web Cafe Case: Kelo v. City of New London

Web Cafe Articles: (1) Harvard Law Review November 2005; (2) Kelo, an American Original

Examples from Philadelphia Zoning Code and Zoning Map posted to Web Cafe

February 5: Class 6: Contract of Sale:

Lefcoe pp. 81-92; 95-96top; 105-115; 138-142

Web Case: Autry v. Boston

February 7: Class 7: Quality of Title; Title Insurance

Lefcoe 145-150; 324-329; 347-353; 357-369; 372-374

Web Cafe: As Built Survey for Discussion

Web Cafe: Hoffman v. Chicago Title

February 12 Class 8: Contract of Sale, cont'd

Second Quiz

Lefcoe pp. 117-136, 163-168

Web Cafe: Reed v. King

Possible addition of environmental law discussion here.

February 14 Class 9: Remedies for Breach of Contract of Sale

Lefcoe 174-187top, 192-196

Web Cafe Cases: In re Strategic Alloys; Kuhn v. Spatial Design; Schwinder v. Austin Bank of Chicago

February 19 and February 21: Allowance for any missed class by professors; review and Finish up Syllabus Matters to this Point.

February 26: ****IN CLASS EXAM*****

II. Financing the Asset

February 28 Mortgage Financing (Loan Terms)
Lefcoe pp. 203-209; 212-215top, 229-237; 243-255; 257-271; 469-477top;
:

March 4 Mortgage Financing, cont'd (Jr. Liens, Credit Enhancement)
Possible carryover discussion of Lefcoe 469-477 top (not reached in prior class)
Lefcoe pp. 275-292
Web Café Materials:
Associated Builders, Inc. v. Coggins;
Personal Liability and Other Security
Burney v. McLaughlin

March 6 Construction Financing (Construction lending, optional/obligatory advances, mechanics liens)
Lefcoe 575-597, 665-669; 649-671
Web Café Materials:
The Optional-Obligatory Doctrine (includes case National Bank of Washington v. Equity Investors and Irwin Concrete v. Sun Coast Properties)

Construction Financing (Chapter 6 of The Law of Real Estate Financing)

Dunlap v. Hinkle

Added: Slides posted to web Café on Construction Process

March 10 No Class: Spring Break

March 12 No Class: Spring Break

March 18 and March 20 (Pre-Foreclosure, Alternatives to Foreclosure, Types of Foreclosure, Auctions, Deficiency Actions and Laws

March 18: Third Quiz
Lefcoe 483-500; 503-519 bottom;
Web Cafe Materials: Comerica Bank v. Harris Bank

Spreadsheet on Web Café: Schematic of Distress Properties and Outcomes
(Excel file)

March 20: Lefcoe :523-524 bottom; 526 bottom to 533; 561-572; 547-549; 552-556.

March 25 Financing Alternatives, Leasehold Financing, Sale/Leasebacks

Lefcoe 780-784; 787-795 top; 805-828
Web Cafe: Sale-Leasebacks Revisited
 How Much Protection does a Leasehold Mortgagee Need?

March 27 Securitization of Real Estate/Mezzanine Debt/SPE's

Fourth Quiz (not more than 15 minutes)
Lefcoe: 764-770; 799-820
Web Cafe: When is a Real Estate Interest a Security
 A Miranda Warning for Conduit Borrowers
 Guide to CMBS
Additional Background/Optional Readings (but may be useful also for review of
concepts covered in class: (1) Article on SPE's and (2) Article on SPE's both
posted to web cafe

III. Managing the Asset

April 1: Introduction to Leasing

No Materials From Lefcoe, All from web cafe:

The Landlord Tenant Relationship (Includes Wade v. Jobe)
Home Rentals Corp. v. Curtis
Harrison v. Housing Resources Management
Slide on Lease Basics (posted to web café)
Sample Real Estate Lease (diagram, posted to web café)

April 3 Commercial Leasing

Skim Lefcoe 831-842;
Full reading Lefcoe 842-873
Web Cafe: Continuous Operations and Going Dark
 Holy Properties, Ltd. v. Kenneth Cole Productions, Inc.

April 8 and April 10 Tax

April 3: Fifth Quiz:

April 3 and April 8: Lefcoe 707-740

Web Cafe: Use of a Qualified Intermediary for 1031 Tax Free Exchanges'

April 15

Condominiums and Cooperatives

April 17

Environmental Law

April 22 and April 25

Allowance for any missed class by professor; Review and Carryover time for Materials from Prior classes

April 29: IN CLASS EXAM