
PREFACE TO THE NINTH EDITION

This Ninth Edition has been updated to reflect significant changes in the law of property over the last few years. Those include important U.S. Supreme Court decisions in *Tyler v. Hennepin County* and *Sheetz v County of El Dorado; City of Grants Pass v. Johnson*, holding that the Eighth Amendment does not prevent the prosecution of homeless people for sleeping on the streets; and the Supreme Court's most recent attempt to grapple with Fair Use in Copyright in the 2023 case of *Andy Warhol Foundation for the Visual Arts, Inc. v. Goldsmith*. For an area one might have thought settled in a mature, market economy, these developments provide powerful evidence that property law continues to change with surprising regularity.

As in the earlier editions, we have attempted to ensure that students and professors can get a clear and accurate picture of the current law, as well as a thorough understanding of the many disagreements among the states on the applicable rules in force. Some of the rules governing property are arcane and complex, and students should be able to learn them without reading a treatise on the side. At the same time, many of the cases have dissents, and almost all have policy discussion justifying the court's approach. Where no dissents are present and the states disagree about the law, we have made this clear in the note material.

In this edition, as in the past, we have included statutory and regulatory text as principal readings throughout the book. It is critical for first-year students to understand that the law is as much a creature of legislatures and agencies as it is of courts, and this is as true in property as in other areas of the law. We have also presented problems that place students in real lawyering roles so that they can use the materials in the book (principal cases, subsidiary cases, textual explanation of the doctrine, and policy concerns) to make arguments on both sides of hard cases and to learn both to justify their judgments and to criticize the results reached by the courts and legislatures.

For some of the principal cases, we have listed the exact or approximate address of the property considered in the case. Here is an example, from *Glavin v. Eckman* in Chapter 1:

Map: Aquinnah, Martha's Vineyard,
Massachusetts



This will allow students and professors to go to an Internet map service, such as Google Maps (<http://maps.google.com>) or Bing Maps (<http://www.bing.com/maps/>) to view the property in question. Both Google and Bing Maps have satellite or aerial views that help give a sense of how the property is situated, as well as the surrounding terrain, and Google Earth has other features as well. Some of us project satellite images on a screen in the front of the classroom as we teach these cases, and it seems to help give students a sense of the lay of the land and the relations among the neighboring parcels. It is particularly helpful in understanding cases that involve land use conflicts among neighbors.

Note that cases throughout the book have been edited for succinctness and to focus students on the most relevant discussions. Some deletions of text within cases are noted by an ellipsis (. . .), but the bulk of our elisions in the text, as well as internal case citations and most footnotes, have been deleted without notation. When footnotes are retained in cases, they are renumbered so that footnotes are consecutively numbered in each chapter.

As with any new edition, especially one as thoroughly updated as this one has been, some mistakes surely have crept in. We would be delighted to hear about them or about any other feedback from faculty and students who use this book. Such feedback motivated many of the changes in this edition, and we welcome future suggestions from users of the Ninth Edition. Feel free to write to us at bethany-berger@iowa.edu; nestor_davidson@gsd.harvard.edu; eduardo@seattleu.edu; and jsinger@law.harvard.edu.

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5786/2026