

PREFACE

Welcome to the study of property law. We hope that you enjoy using this book as much as we enjoyed writing it. Property involves more than the ownership of things by people. Instead, it involves a rich tapestry of *human relationships* with respect to things. As a reminder of this relational nature of property, the text moves outward from a consideration of the rights of individual owners (Part One), to the overlapping rights and duties of multiple owners of shared property (Part Two), to the process of transferring property from one owner to another (Part Three), to the accommodation of private rights and the public interest through contractual, common law, statutory, and constitutional law provisions (Part Four).

The text raises five recurrent themes to highlight tensions inherent in property law and to encourage students to think more broadly about property as a unified discipline: (1) possession and dispossession (exploring the relationship between possession and ownership, and highlighting how possession by some (such as European explorers who “discovered” the continent) can lead to the dispossession of others (such as the indigenous peoples already living in the area now comprising the United States)); (2) property law and race* (considering how property law affects the distribution of wealth and power within a society, sometimes creating a divide along lines of race and class); (3) the importance of place (highlighting the tension between property as a market commodity and as a place capable of fostering personhood and community interactions); (4) “just passing through” (raising the issue of “dead hand control”); and (5) “a changing world” (addressing the tension between traditional, stable property principles and changing social and physical landscapes).

* Editorial note: Throughout the book, we follow the recommendation of the National Association of Black Journalists in capitalizing both Black and White when these words are used to describe race. See National Association of Black Journalists, *NABJ Statement on Capitalizing Black and Other Racial Identifiers* (Oct. 2022), <https://nabjonline.org/news-media-center/styleguide/>. In using this approach, we seek to call attention to racial categories as historically and socially created identities. See Kwame Anthony Appiah, *The Case for Capitalizing the “B” in Black*, Atlantic Online (June 18, 2020).

Pedagogical Features

This text offers a number of innovative features designed to make the study of property law fresh and engaging. All are contained in the printed text for easy access.

“A Place to Start” text boxes and follow-up problems: As an entry point to complex doctrines, *A Place to Start* text boxes give overviews of legal rules as a reference that you should consult often. Most boxes invite you to “dig deeper” by highlighting ambiguity and subtleties that deserve further consideration. By providing an overview of the law, the text equips you with the framework necessary to maximize your understanding of the case law that follows, and allows the class to move through basic doctrines quickly and focus on more nuanced questions. Subsequent *Test Your Understanding* problems provide an opportunity for you to tease out additional detail through self-directed learning, or a reservoir of problems that the class can work through together.

Reading guide: Each case is preceded by a reading guide to help you place the cases into the broader context of the chapter.

“Beyond the Black Letter” discussion problems: Each chapter features an emerging contemporary challenge that will impact and potentially reshape property law. Topics include the sharing economy, cybersquatting, the eviction crisis in the United States, climate change, real estate bubbles, drones, urban agriculture, and others.

Sample documents: The text contains numerous property documents and focused questions that encourage you to study those documents carefully. Examples include a lease, a contract for the purchase of real estate, a general warranty deed, and an easement agreement.

Chapter reviews: Each chapter offers students a variety of review problems (both multiple-choice and essay) with answers supplied in the casebook Appendix.

Statutory practice: Statutes, uniform state laws, and Restatement sections are judiciously reproduced in stand-alone sections, rather than scattered in snippets throughout the chapter. Such excerpts show the interplay between common law and statutory law, and provide opportunities to develop the skill of close statutory reading and interpretation. Selections include the Fair Housing Act; the Uniform Partition of Heirs Property Act; the Restatement (Second) of Torts, Nuisance; the Restatement (Fourth) of Property, Nuisance; the Restatement (Third) of Property, Servitudes; and others. In addition, each chapter review contains a *Bringing It Home* section that suggests important topics of state statutory law that you might want to research for your home jurisdiction (including guidance about the skill of statutory research).

Visual learning: The text features dozens of photographs, timelines, figures, and other visual aids to facilitate learning. Each chapter opens with a map showing the location where each of the chapter’s cases took place. This serves as a visual geographic table of contents, and also as a reminder that property disputes can be heavily influenced by the places where they arose (majority or minority jurisdiction? private property or public shop? newly discovered continent or outer space?).

Skills exercises: Each chapter includes a skills exercise that provides a group exercise that can be completed in one class session or less. Skills include the following:

Category	Skill	Chapter
Legal analysis	Fact-based argument	1
	Precedent-based argument	1
	Policy-based argument	2 (conditional gifts) 10 (common interest communities)
	Statutory analysis	2 (finders and canons of construction) 6 (statutes and regulations) 6 (Outer Space Treaty) 7 (Fair Housing Act)
	Outlining	1
Client-related skills	Interviewing and counseling	4 (interests v. position) 5 (tenants in common) 7 (purchase offers) 8 (constructive notice) 11 (interests v. position) 13 (discovery plan)
Drafting documents	Savings clauses	3 (rule against perpetuities)
	Lease	4
	Tenants in common agreement	5
	Tenant estoppel statements	8
	Easement agreement	9
	Zoning regulations	12 (statement of purpose)
Negotiation	Tenants in common agreement	5 (BATNA)
	Easement agreement	9

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