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**Rutgers University**  
**Edward J. Bloustein School of Planning and Public Policy**  
**Program in Urban Planning and Policy Development with the**  
**Departments of Geography, Political Science, and Human Ecology**

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**Property Theory and Land Use Policy**

34:970:525:01 (Urban Planning and Policy Development)  
16:450:606:02 (Geography)  
16:790:517:01 (Political Science)  
16:378:502:01 (Human Ecology)

Professors

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**Spring 2007, Wednesdays 9:50-12:30, Civic Square Bldg. Rm. 168**

**What are the subjects of this course?**

Property theory and policy deal with what it means to possess, control, own and use something. What are the rights of owners, renters, neighbors, consumers, and the rest of society? What justifies private ownership and use? What justifies governmental or public intervention in ownership or use? Is property a natural right or a creation of government? What distribution of property and land is just? Can property be considered land, money, and the right to education, housing and health? What role does property play in the development of personhood, community, and economic development?

**Course requirements**

Each participant will be responsible for presenting a summary and critique of several selections from the readings, spread out over the semester. On each day for which a student is responsible for leading the discussion on a reading, he or she shall distribute a summary or outline of their presentation by email **at least 24 hours in advance of class**. The purpose here is not to reiterate the material although a brief summary of the author's argument may be useful. The chief purpose is to raise questions stimulated by the reading and to challenge the author's arguments or support them.

**In addition, each student will do an original research paper, not to exceed 25 pages double-spaced, on a topic approved by the professors.** A one-page proposal for this topic is due on February 27, two copies. **Each student will be responsible for doing all of the required readings**

**each week and actively contributing to the class discussion, reflecting on the readings in a thoughtful and critical manner. The final class grade will be based half on classroom participation, which includes leading discussions of readings and responding weekly to the presentations of others, and half on the final research presentation and paper.**

**\*Research Topics. Students are encouraged to do adventurous research papers. Perspectives are welcome from all disciplines and points of view.**

We invite students to hand in early drafts of research papers for faculty comments that might be incorporated in final drafts. This is completely optional.

### **Academic Integrity**

All students are expected to know, understand and live up to the standards of academic integrity explained at <http://teachx.rutgers.edu/integrity/>. If you have any question about these, ask us.

### **Required Texts**

*Available at the Rutgers University Bookstore, Ferren Mall*

Richard Kluger, *Achieving Destiny: How America Grew from Sea to Shining Sea* (New York: Knopf, 2007)

Douglas Ray, *City: Urbanism and Its End* (New Haven: Yale University Press, 2003; paperback)

Hal Rothman, *–Neon Metropolis: How Las Vegas Started the Twenty-First Century* (New York: Routledge, 2003; paperback)

### ***Sakai Site***

There is a Sakai site for the course to which everyone has access. On-line assignments will be posted there and/or URL links will be provided. In addition, recommend materials will also be posted on the site.

### **Course Calendar and Readings**

Jan 23 Introduction. Discussion of research interests of seminar participants.

Jan 30 C.A. Arnold, “The Structure of the Land Use Regulatory System in the United States” pdf available on Sakai

Feb 6 Jeremy Waldron, “Property,” *Stanford Online Encyclopedia of Philosophy* accessible via Sakai

Feb 13 John Locke, *Second Treatise on Government*, ch. 5, “Of Property” Accessible via Sakai

Feb 20 Kluger, Preface and chs. 1-5

Feb 27 Kluger, chs. 6-10

Mar 5 Kluger, chs. 11-15

Mar 12 Rothman, first half

Mar 19 No Class: Spring Break

Mar 26 Rothman, second half

April 2 assignment t.b.a.

April 9 Rae, first half

Apr 16 Rae, second half

Apr 23 Student presentations

Apr 30 Student presentations

**May 7 Research papers due, Noon. \***

**\*Important Note:** There is a strict page limit of 25 pages for the research paper in this course, all-inclusive of titles (separate title pages are unnecessary), text, notes, references, tables, etc., with a maximum of 260 words of text per page, double spaced, with the exception of block quotes, notes, and bibliography which may be single spaced with double spacing between entries. No covers or binder please, just staple in upper left corner. Pages should read from top to bottom of the 11-inch dimension with one-inch margins all around. The note and reference system should conform to the guidelines of *The Chicago Manual of Style* or *The Publication Manual of the American Psychological Association*. Final papers must be delivered in hardcopy on or before the due date, 2 copies – no electronic transmissions.

**In spring 2006** students wrote papers on:

The Impact of HOPE VI on Individual Social Networks

Rescaling Governance: Regulatory Takings under NAFTA and Oregon's Measure 37

Religious Land Use Conflicts in the US: Their Historic and Theological Contexts

From Marble to Dust: The Century Building and the National Trust in St. Louis

Post-Socialist Real Estate in Slovenia

Dealing with Decline (or Not): Case Studies from Upstate New York and Eastern Germany

**In spring 2007** students wrote papers on

Irish Land Use Policies

Air Rights as Property Rights

The Ethics of Environmental Sacrifice Zones

Individual Land Use and Property Rights in the Coastal Zone

**Bibliography**

The following books and other materials are highly recommended as background and additional reading; they incorporate materials assigned in previous years.

Anderson, Terry L., and Fred S. McChesney, eds. 2003. *Property Rights: Cooperation, Conflict, and Law*. Princeton: Princeton University Press.

Beito, David T., Peter Gordon, and Alexander Tabarrok, eds. 2002. *The Voluntary City: Choice, Community, and Civil Society*. Ann Arbor: The Independent Institute and The University of Michigan Press.

Blomley, Nicholas. 2004. *Unsettling the City: Urban Land and the Politics of Property*. New York: Routledge.

Bromley, Daniel W. 1991. *Environment and Economy: Property Rights and Public Policy*. Cambridge, MA: Blackwell.

Cohen, Felix S. 1954. "Dialogue on Private Property," *Rutgers University Law Review*, 9:2 (Winter), 357-88.

De Soto, Hernando. 2000. *The Mystery of Capital: Why Capitalism Triumphs in the West and Fails Everywhere Else*. New York: Basic Books.

Didion, Joan. 2004 (originally published 2003). *Where I was From*. New York: Vintage

Durand-Lasserve, Alain and Lauren Royston, eds. 2002. *Holding Their Ground: Secure Land Tenure for the Urban Poor in Developing Countries*. London: Earthscan.

Ellickson, Robert C., Carol M. Rose and Bruce A. Ackerman, eds. 1995. *Perspectives on Property Law*, 2<sup>nd</sup> edition. Boston: Little, Brown and Company.

Ely, James W., Jr. 1992. *The Guardian of Every Other Right: A Constitutional History of Property Rights*. New York: Oxford.

Epstein, Richard A. 1995. *Simple Rules for a Complex World*. Cambridge: Harvard University Press.

Fernandes, Edésio and Ann Varley, eds. 1998. *Illegal Cities: Law and Urban Change in Developing Countries*. London: ZED Books.

Fischel, William A. 2001. *The Homevoter Hypothesis: How Home Values Influence Local Government Taxation, School Finance, and Land-Use Policies*. Cambridge, MA: Harvard University Press.

Fischel, William A. 1995. *Regulatory Takings: Law, Economics, and Politics*. Cambridge, MA: Harvard University Press.

Geisler, Charles and Gail Daneker, eds. 2000. *Property and Values: Alternatives to Public and Private Ownership*. Washington, DC: Island Press.

Geisler, Charles. N.d. *Useful Writings on Topics of Property, Land, and Land Reform: A bibliography*. Cornell University, Ithaca, NY for the Equity Trust, Inc.

- Grey, Thomas C. 1980. "The Disintegration of Property," *NOMOS XXII: Property*, ed. J. Roland Pennock and John W. Chapman. NY: New York University Press — posted on Sakai.
- Grotius, Hugo. *The Rights of War and Peace* (1625), ed. Richard Tuck, 3 vols. Indianapolis: Liberty Fund, 2005, Bk. II, chs. 2 and 3 (vol. 2, pp. 420-82).  
Available at [http://olldownload.libertyfund.org/EBooks/Grotius\\_1032.02.pdf](http://olldownload.libertyfund.org/EBooks/Grotius_1032.02.pdf)
- Grotius, Hugo. *The Free Sea* (1609), ed. David Armitage (Indianapolis: Liberty Fund, 2004).  
Ch. 5, pp. 20-38  
William Wellwood, "Of the Community and Propriety of the Seas," pp. 65-74  
Grotius, "Defense of Chapter V," pp. 77-130  
Available at  
<http://oll.libertyfund.org/Home3/Book.php?recordID=0450>
- Hann, C. M., ed. 1998. *Property Relations: Renewing the Anthropological Tradition*. Cambridge: Cambridge University Press.
- Hanson, Victor Davis. 1996. *Fields Without Dreams: Defending the Agrarian Idea*. New York: The Free Press.
- Harris, J. W. 1996. *Property and Justice*. Oxford: Oxford University Press.
- Honoré, A. M. 1961. "Ownership," *Oxford Essays in Jurisprudence*, 1<sup>st</sup> series, ed. A.G. Guest. Oxford: Oxford University Press — posted on Sakai.
- Hunt, Robert C. and Antonio Gilman, eds. 1998. *Property in Economic Context*. Monographs in Economic Anthropology, No. 14. Lanham: University Press of America.
- Kohn, Margaret. 2004. *Brave New Neighborhoods: The Privatization of Public Space*. New York: Routledge.
- Krueckeberg, Donald A. "The Difficult Character of Property," *Journal of the American Planning Association*, 61: 3 (Summer, 1995), 301-306
- Krueckeberg, "The Lessons of John Locke of Hernando de Soto: What If Your Dreams Come True?" *Housing Policy Debate*, 15: 1 (2004), 1-24  
Comments by Peter F. Schaefer and Peter Marcuse  
Available via the university library from the journal title  
[http://www.fanniemaefoundation.org/programs/hpd/pdf/hpd\\_1501\\_Krueckeberg.pdf](http://www.fanniemaefoundation.org/programs/hpd/pdf/hpd_1501_Krueckeberg.pdf)
- Levine, Jonathan C. (2006). *Zoned Out: Regulation, Markets, and Choice in Transportation and Metropolitan Land Use*. Washington, DC: Resources for the Future.
- Mansfield, Becky. "Neoliberalism in the Oceans: 'Rationalization,' Property Rights, and the Commons Question," *Geoforums*, 35 (2004), 313-326.
- McCay, Bonnie J. "ITQs and Community: An Essay on Environmental Governance," *Review of Agricultural and Resource Economics*, 33: 2: 162-170.

- McCay, Bonnie J. "Oyster Wars, Public Trust, and the Law in New Jersey," *New Jersey's Environments Present, and Future*, ed. Neil M. Maher (New Brunswick, NJ: Rutgers University Press, 2006), 51-67.
- Meltz, Robert, Dwight H. Merriam, and Richard M. Frank. 1999. *The Takings Issue*. Washington, DC: The Island Press.
- Mitchell, Don. 2003. *The Right to the City: Social Justice and the Fight For Public Space*. New York: Guilford Press.
- Nedelsky, Jennifer. 1990. *Private Property and the Limits of American Constitutionalism: The Madisonian Framework and Its Legacy*. Chicago: University of Chicago Press.
- Palmer, Tom. n.d. *Intellectual Crosscurrents...Issues and Items of Interest...Persons, Property, and Profits*. Institute for Humane Studies, George Mason University.
- Penner, J. E. 1997. *The Idea of Property in Law*. Oxford: Oxford University Press. – Primarily British but with applicability to the United States
- Pennock, J. Roland and John W. Chapman, eds. 1980. *NOMOS XXII: Property*. NY: New York University Press.
- Pipes, Richard. 2000. *Property and Freedom*. New York: Vintage.
- Radin, Margaret. 1994. *Reinterpreting Property*. Chicago: University of Chicago Press.
- Roberts, Thomas E., ed. 2002. *Taking Sides on Takings Issues: Public and Private Perspectives*. Chicago: American Bar Association.
- Rose, Carol M. (1985). "Possession as the Origin of Property," *University of Chicago Law Review*, 52, 73-88.
- Rose (1990). "Property as Storytelling: Perspectives from Game Theory, Narrative Theory, Feminist Theory," *Yale Journal of Law and the Humanities*, 2, 37-57.
- Both available via the university library website and reprinted in her *Property and Persuasion: Essays on the History, Theory, and Rhetoric of Ownership*. Boulder, CO: Westview Press, 1994.
- Simpson, A. W. B. 1986. *A History of the Land Law*, 2<sup>nd</sup> ed. Oxford: Oxford University Press.
- Singer, Joseph William. 2000. *Entitlement: The Paradoxes of Property*. New Haven: Yale University Press.
- Singer, Joseph William. 2005. *Introduction to Property*, 2<sup>nd</sup> edition. New York: Aspen Publishers.
- Smith, Adam. *An Inquiry into the Nature and Causes of the Wealth of Nations* (1776). 2 vols., ed. R.H. Campbell and A.S. Skinner (Oxford: Oxford University Press, 1976; and reprinted Indianapolis: Liberty Fund, 1981).  
available from <http://www.libertyfund.org/>

The most relevant parts for our purposes are:

Introduction and Plan of the Work

Book I

Chapter 1, “Of the Division of Labour”

Chapter 2, “Of the Principle which Gives Occasion to the Division of Labor”

Chapter 3, “That the Division of Labor is Limited by the Extent of the Market”

Chapter 4, “Of the Origin and Use of Money”

Chapter 11, “Of the Rent of Lands,” Parts i-iii (sections a-e)

Book IV

Chapter 1, “Of the Principle of the Commercial or Mercantile System”

Chapter 2, “Of the Restraints upon Importation from Foreign Countries...”

**[this chapter contains the “invisible hand” passage (§9)]**

*Social Philosophy and Policy*, 11: 2 (Summer, 1994). “Property Rights.”

Waldie, D. J. 2005 (originally published 1996). *Holy Land: A Suburban Memoir*. New York: St. Martin's Griffin.

Waldron, Jeremy. 1988. *The Right to Private Property*. Oxford: Oxford University Press.

Webb, Walter Prescott. 2003. *The Great Frontier*. Reno: University of Nevada Press (First published in 1952).

Yandle, Bruce, ed. 1995. *Land Rights: The 1990's Property Rights Rebellion*. Lanham, MD: Rowman and Littlefield.