

University of Victoria Faculty of Law
REAL PROPERTY TRANSACTIONS
LAW 317

Unit Value 2.0 units
Term Offered Fall 2009
Classes Tuesday and Thursday 1:30 to 3:20 pm Room 157

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Office Hours: By appointment

MAJOR EDUCATIONAL GOALS

The single largest investment that most Canadians make is in their home, and most commercial entities buy, sell and/or lease property. These transactions are an integral part of most law practices and often serve as introductions to new clients. With the current low interest rates and relative real estate boom, real property transactions are a staple to the practice of law. They are also one of the areas of law where insurance claims for lawyer errors are the highest.

In the context of the real estate market and the form-based practice of real estate law, the course provides an introduction to the legal issues that arise during residential real estate transactions. This is largely a course in advanced contracts viewed through the lens of buying and selling residential single family homes. The course walks through the stages of a transaction, from listing the property to securing a mortgage and closing the deal. If time permits, a section on strata corporations will be included.

COURSE OBJECTIVES

- To understand the basic legal duties of real estate licensees and the legal implications of the listing contract;
- To become familiar with and understand the legal implications of the terms of the Contract of Purchase and Sale of real property;
- To understand the fundamentals of a mortgage of land, the significance of its common terms and the relevant legislation;
- To be able to evaluate and analyze the legal significance of problems that occur between signing the contract for purchase and sale and registration of land transfer documents in the Land Title Office;
- To be able to evaluate and strategize about breaches of the contract for purchase and sale by vendors and purchasers;
- To understand the range of potential remedies available to parties in contracts for sale of land;
- To appreciate the legal structure for closing a conveyance and understand the professional responsibilities of solicitors involved in the transaction.

SUBJECT MATTER TO BE COVERED

- (1) Real Estate Brokering (Marketing the Property)
- (2) The Contract of Purchase and Sale
- (3) Financing (Mortgages)
- (4) Problems Pre-Closing and Closing
- (5) Remedies
- (6) Completion/Closing
- (7) Post-Closing Issues

METHODOLOGY

Lectures: Lectures will outline a framework within which students can organize the detailed subject matter for the course.

Readings: The readings contain the detailed subject matter for the course. Students should carefully review the assigned legislation and other instruments as much of their specific content will not be conveyed in lectures. Cases should also be read carefully, not only as a statement of the present state of the law in that area, but to identify the court's approach to the problem and the general principles expressed. The assigned articles provide excellent overviews of topic areas.

Class discussion: Class discussion will encourage students to critically reflect upon the materials as well as to apply knowledge from the readings and lectures to practical problems.

In-Class Exercises: The classroom exercises allow students to work together to apply an aspect of the course to a fact pattern where they act as counsel for a client.

Memo and Final examination: The memo and exam are designed to encourage students to consolidate their understanding of the material covered in the course.

EVALUATION

The final grade for this course will be based on a memo (40% of the grade) and a two and one half hour final examination (60% of the grade):

Memo: On October 15 in class I will distribute a fact pattern and instructions for students to write a legal memo providing advice to a client about a contract of purchase and sale. Students will have one week to complete the memo using the course materials only. The memo will be limited to approximately 8 pages. Please obtain mid-term code names for this memo from the law school administration.

Final Exam: The first half hour of the exam is a reading period. Students will be permitted to write for two hours. The exam will cover approximately 2/3 of the course materials (all materials except the topic of the contract of purchase and sale covered in weeks 3 to 5). The final examination is currently scheduled for Tuesday

December 15, 2009. It is your responsibility to check the final exam schedule for the date, time and location of the exam. The exam will be open book. You may bring any notes and materials you have prepared. No library reference or practice materials will be allowed in the examination room. Please obtain your final code names from the law school administration.

The Faculty's grading system will be used to translate numerical grades to letter grades. The relevant equivalencies between numerical and letter grades are as follows:

Letter Grade	Grade Point Value	Percentage Value	Narrative Description
A+	9	90-100%	Exceptional, outstanding, and excellent performance, normally achieved by a minority of students. These grades indicate a student who is self-initiating, exceeds expectation, and has an insightful grasp of subject matter.
A	8	85-89%	
A-	7	80-84%	
B+	6	75-79%	Very good, good, and solid performance, normally achieved by the largest number of students. These grades indicate a good grasp of subject matter or excellent grasp in one area balanced with satisfactory grasp in the other area.
B	5	70-74%	
B-	4	65-69%	
C+	3	60-64%	Satisfactory or minimally satisfactory performance. These grades indicate a satisfactory performance and knowledge of subject matter.
C	2	55-59%	
D	1	50-54%	Marginal performance. A student receiving this grade demonstrates a superficial grasp of subject matter.
F	0	49 or below	Unsatisfactory performance.

REQUIRED MATERIALS

Location

Most materials for the course can be accessed online through the course web page or through this course description by web link. Print materials are on reserve.

Summary of Key Concepts

There is no course text available for real estate law in B.C. For each week's topic I summarize in general terms the key concepts so that you have some background information before beginning the readings. I will endeavour to post these summaries on the course website the week before the topic is addressed in class. I recommend that you read them and any substantive articles (e.g. from the Real Property Reporter) first, before reading the case law. There are also several excellent practice resources available (see below under Legal Information) should you need further clarification of the subject matter.

RESOURCES

Legislation

Updates BC legislation is now available online for free at www.bclaws.ca.

British Columbia:

Business Practices & Consumer Protection Act

Homeowner Protection Act

Land Title Act

Land Transfer Form Act

Law and Equity Act

Local Government Act

Mortgage Brokers Act

Property Law Act

Property Transfer Tax Act

Real Estate Development Marketing Act

Real Estate Services Act

Real Estate Services Act Rules – <http://www.recbc.ca/pdf/RECBCRules.pdf>

Strata Property Act

Canada:

Criminal Code - <http://www.canlii.org/ca/sta/c-46/>

Interest Act - <http://www.canlii.org/ca/sta/i-15/>

Legal Information:

British Columbia Real Estate Law Guide, CCH Canada, KEB230 C33 1998 (on reserve for this course)

Continuing Legal Education, B.C. Real Estate Practice Manual

<http://online.cle.bc.ca/login.aspx?ReturnUrl=%2fPracticeManual%2fContent.aspx%3fstrBookID%3d42776%26Current%3d12%3a11%3a37.2373419&strBookID=42776&Current=12:11:37.2373419>

Law Society of B.C., Professional Conduct Handbook -

http://www.lawsociety.bc.ca/publications_forms/handbook/handbook_toc.html

Other Information:

B.C. Real Estate Association - <http://www.bcrea.bc.ca/index.htm>

Real Estate Institute of BC - <http://www.reibc.org/>

OTHER

Regulations: Students should obtain and review all regulations and policies contained in the University of Victoria Calendar, 2006-2007 (“U Vic Calendar”), both generally and specifically for the Faculty of Law. The Undergraduate Academic Regulations (2009-2010) of the UVic Calendar set out the University’s expectations about attendance and assignments (<http://web.uvic.ca/calendar2009/FACS/UnIn/UARE/index.html>).

Classroom Climate: An inclusive, respectful, and diverse classroom environment is crucial to our work in this course. To ensure that all class members feel welcomed and equally able

to contribute to class discussions, both I as instructor and you as students must endeavour to be respectful in our language, our examples, and the manner in which we conduct our discussions. We have both an ethical and legal obligation to support this kind of environment (see the University's Discrimination and Harassment Policy ([http://www.uvic.ca/shared/shared_use/secs/docs/policies/GV0205_1150 .pdf](http://www.uvic.ca/shared/shared_use/secs/docs/policies/GV0205_1150.pdf)), and the Faculty is committed to promoting, providing and protecting a positive, supportive and safe learning and working environment for all its members. If you have any concerns about the climate of the class, please contact me.

Academic Integrity: As part of the academic community of both the Faculty of Law and the University as a whole, academic integrity is centrally important in the work of faculty and students. Please consult the University Calendar for policies respecting paraphrasing, plagiarism, and cheating. If you have any concerns or questions, or require clarification, do not hesitate to drop by my office or to send me an e-mail. The policy on academic integrity can be found on the web at the following address: <http://web.uvic.ca/calendar2009/FACS/UnIn/UARE/PoAcI.html>.

Students with a Disability: If you have any type of disability, there are support systems, resources, and accommodation actions available to you. If you wish to access any of these supports, resources or accommodations, I encourage you to contact the Associate Dean or the Resource Centre for Students with a Disability (<http://rcsd.uvic.ca/about.html>) and I would be more than happy to work with you to ensure your success in this course.

Accommodation of Religious Observances: The University of Victoria and the Faculty of Law have policies guaranteeing accommodation for those students who are unable to participate in a class or an aspect of the course owing to a religious holiday. If you will be missing a class, know that you will be unable to complete an assignment or exam, or otherwise require accommodation on account of a religious holiday please speak with me so that we can work out some satisfactory form of accommodation.