

SUSTAINABILITY LAW - LAW 353a
Environmental Law Centre Clinic Intensive
2010-2011: Spring Term 2011

COURSE INFORMATION

Prerequisites	None
Co-requisites	Law 353 (ELC Clinic)
Unit Value	2.0 units (1 unit in class and 1 unit project-based)
Term Offered	Fall 2010 and Spring 2011 (both terms mandatory)
Classes	Thursday 3:30-5:30 pm ELC Meeting Room (Room 270c in Library)
Instructor	Deborah Curran Telephone: 250-853-3105 Email: dlc@uvic.ca Office Hours: By appointment, Office 286 in Library

MAJOR EDUCATIONAL GOALS/COURSE OBJECTIVES

The practice of environmental law is evolving rapidly in this century. Concerns about global problems like climate change are spurring governments to take new regulatory action, and are creating new causes of action and practice areas in law. At the same time, community organizations, citizens and environmental groups are becoming more sophisticated in challenging unsustainable land development practices and decisions that have an adverse impact on human health. The focus of environmental law no longer rests with the natural environment. It now includes proactive sustainability strategies such as green buildings, demand management and joint decision-making. These approaches to public interest environmental law significantly expand the practice areas involved in this approach to law, and offer new opportunities for the legal profession to integrate sustainability considerations into traditional practice areas.

The purpose of this course is to complement Law 353 Environmental Law Centre Clinic by:

- becoming familiar with the emerging areas of public interest sustainability law;
- understanding the practice skills required for sustainability law;
- acquiring law office, case management and planning skills;
- developing legal writing, presentation and team work skills in class and by working with clients involved in public interest environmental law issues or disputes; and
- becoming familiar with a range of public interest environmental law issues, players, and strategies for using the legal system to pursue sustainability goals.

SUBJECT MATTER TO BE COVERED

- (1) Case practice management including ethics, file management and client relations.
- (2) Working on a client-based project as a team.
- (3) Application of sustainable land development in the urban context to a specific case study.
- (4) Application of sustainable land development and aboriginal rights and title in the rural context to a specific case study.

- (5) Negotiations and acting for a party in environmental negotiations.
- (6) Designing and conducting a class workshop.

REQUIRED MATERIALS

All course materials are available online or will be emailed to students.

RESOURCES

Legislation: www.bclaws.ca

Information:

- B.C. Utilities Commission www.bcuc.com
- Canadian Environmental Law Association www.cela.ca
- Canadian Institute for Environmental Law and Policy www.cielap.org
- Canadian Institute for Resources Law <http://ciril.ca/>
- Ecojustice Canada www.ecojustice.ca
- Environmental Appeal Board www.eab.gov.bc.ca
- Local Governments in B.C. <http://www.civicnet.bc.ca>
- West Coast Environmental Law Association www.wcel.org

METHODOLOGY

Lectures, guest lectures, classroom discussion, presentations, field trip, and work with a client.

EVALUATION (for both terms)

The course will be graded on a pass/fail basis. Students must attend all classes, excusable only for medical, family or other pressing reasons. Permission to miss a class should be obtained ahead of time from the instructor or Associate Dean. Unexcused absences may be grounds for failure. Students must:

1. Participate in class discussions and activities
2. Make a presentation in a public setting
3. Write a legal opinion and a short advocacy article
4. Lead a classroom topic in Term II
5. Work with the class as a team on a group project (2 weeks)
6. Negotiate a resource management dispute
7. Manage one or more client files

1. Participation in class discussions and activities

It is expected that students will have read assigned materials prior to class and will be prepared to discuss them and their case project each week.

2. Presentation in a public setting

Each student will make a presentation in a public setting. Ideally this presentation will be part of their client work. However, if no presentation opportunity arises the student may choose to

make a presentation to any public body, for example a local government, a legislative committee, or at a public hearing. The presentation must occur before February 28, 2008, except by prior arrangement with the instructor. The instructor must approve the venue/topic and be notified ahead of time of the time and location of the presentation.

3. Write a legal opinion and advocacy article

The cornerstone of the legal profession is providing legal opinions to clients about the state of the law as it pertains to a client's legal issue, and making recommendations about the desired course of action for the client. Students will draft a legal memo in the course of their client work, and will redraft the legal memo as a short advocacy piece for non-lawyers. Students completed the legal opinion and advocacy piece in term one.

4. Lead a classroom topic in Term II

Term II is largely devoted to two case studies. Each student will facilitate the discussion of one class and present an element of the case study. Students will sign-up to lead a class by January 19, 2009. The instructor must approve the topic and readings for the class 10 days in advance of each student's class facilitation.

5. Work with the class on a group project

The first two weeks of the second term will be devoted to a group project that responds to an Environmental Law Centre client. The group project will familiarize the class with working in teams and joint problem-solving.

6. Participate in a negotiation

Two classes in Term II are devoted to a negotiation exercise where students negotiate a resource management dispute on behalf of different clients. Students will choose a client and act on behalf of that client during the negotiation by representing their interests.

7. Manage client files

Classroom hours are reduced by half (two credit courses usually require four class hours per week) in anticipation of one-on-one supervision by the instructor and additional work on managing client files. It is recommended that students spend twelve hours per week on client-based work to ensure ongoing progress and file completion by the end of the term. This suggested hours per week is not a ceiling: for a two-credit course students are expected to complete work in the range of twenty pages. Additional client-based work of similar length is necessary to fulfill the requirements of Law 353, a co-requisite for this course. This means that most students will produce two products, or one large product in excess of 30 pages, per term. Failure to do so will result in a grade of incomplete or fail. Students will meet individually with the instructor at least once per month (and normally more frequently) to discuss their cases.

In keeping with the file management protocols established through good law practice and the Environmental Law Centre, students will hand in to the instructor their timesheets and record of activities on a weekly basis. Failure to do so will result in a failing grade.

Course Outline

<p>Week of: January 6 Week 1</p>	<p>Class Project Introduction to content and process considerations for class project.</p> <p>Readings (for both weeks of class project): PLTC Materials Chapter 5 Client Relations pp.92-98 http://www.lawsociety.bc.ca/licensing_membership/pltc/docs-material/practicemanage_ch5.pdf Teamwork in the Classroom http://www.ndt-ed.org/TeachingResources/ClassroomTips/Teamwork.htm Compensation: Partnering with your Partners http://www.lawbiz.com/january2001b.html You will also receive materials via email on the specific client issue.</p>
<p>January 13 Week 2</p>	<p>Class Project Continued View Dockside Green sustainability http://docksidegreen.com/sustainability/eco-friendly/eco-friendly.html Sample videos http://docksidegreen.com/bottom/media-room/media-gallery.html</p>
<p>January 20 Week 3</p>	<p>Case Study 1 Urban Sustainability: Dockside Green (Session 1) Overview and Issues Sustainable neighbourhood development: legal elements and challenges</p> <p>Facilitator: Deborah Curran</p> <p>Readings (for Sessions 1 and 2): Elizabeth Yip, What Green Development Means for Lawyers: Fifteen Years of Experience from UniverCity and Dockside Green http://online.cle.bc.ca/CourseMaterial/pdfs/2009/215_1_1.pdf Master Development Agreement http://www.victoria.ca/cityhall/pdfs/currentprojects_dockside_masterdev.pdf Zoning Bylaw http://www.victoria.ca/cityhall/pdfs/currentprojects_dockside_sked-a.pdf 2008 Sustainability Report (skim) http://www.victoria.ca/cityhall/pdfs/currentprojects_dockside_sstnbl_rprt_2008.pdf All documents relating to the Dockside Green project at http://www.victoria.ca/cityhall/currentprojects_dockside.shtml?zoom_high_light=dockside</p>

<p>January 27 Week 4</p> <p>Site visit to Dockside Green</p>	<p>Case Study 1 Urban Sustainability: Dockside Green (Session 2)</p> <p>Facilitator: Kim Fowler, Director of Sustainability, City of Victoria</p>
<p>February 3 Week 5</p>	<p>Case Study 1 Urban Sustainability: Dockside Green (Session 3) [topic]</p> <p>Facilitator(s): Readings:</p>
<p>February 10 Week 6</p>	<p>Case Study 1 Urban Sustainability: Dockside Green (Session 4) [topic]</p> <p>Facilitator(s): Readings:</p>
<p>February 17 Week 7</p>	<p>Negotiation – Round 1</p> <p>Readings:</p> <p>Professional Conduct Handbook, Canons of Legal Ethics 3.3 http://www.lawsociety.bc.ca/publications_forms/handbook/chapter-01.html#1-2 Shin Imai, Sound Science, Careful Policy Analysis, and Ongoing Relationships: Integrating Litigation and Negotiation in Aboriginal Lands and Resources Disputes. 41 Osgoode Hall Law Journal 587 (2003) Negotiation fact pattern and individual roles/positions</p>
<p>February 24</p>	<p>Reading Break</p>
<p>March 3 Week 8</p>	<p>Negotiation – Round 2 No Readings</p>

<p>March 10 Week 9</p>	<p>Case Study 2 Rural Sustainability: Tsilhqot'in Nation (Session 1) Overview</p> <p>Facilitator: Deborah Curran Readings: Tim Thielmann, History of Land Use Planning in B.C. (excerpt) First Nations Land Use Planning</p>
<p>March 17 Week 10</p>	<p>Case Study 2 Rural Sustainability : Tsilhqot'in Nation (Session 2) <i>Tsilhqot'in Nation v. British Columbia</i></p> <p>Facilitator: Jay Nelson, Woodward & Company Readings: <i>Tsilhqot'in Nation v. British Columbia</i> 2007 BCSC 1700 (excerpts)</p>
<p>March 24 Week 11</p>	<p>Case Study 2 Rural Sustainability: Tsilhqot'in Nation (Session 3) [topic]</p> <p>Facilitator(s): Readings:</p>
<p>March 31 Week 12</p>	<p>Case Study 2 Rural Sustainability: Tsilhqot'in Nation (Session 4) [topic]</p> <p>Facilitator(s): Readings:</p>
<p>T.B.D. Week 13 Last class spring term</p>	<p>Term 2 Class Evaluation Class evaluation of course content and materials Review of course content and expectations</p>