

PLAN 3060 LAW, LAND AND THE ENVIRONMENT
PLAN 6050 LAW, LAND AND THE ENVIRONMENT
Fall Semester 2019

Location: Campbell Hall 158
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Teaching Assistants:

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COURSE DESCRIPTION AND OBJECTIVES

This course is intended to provide an introduction to legal concepts and processes involved in land use planning and environmental policy. In particular, the course is intended to give you exposure to court cases, statutes, and court decisions that set parameters for some of planning and environmental management's key tools, including the comprehensive plan, zoning and other land use controls, eminent domain, conservation easements, pollution prevention and abatement regulation, and environmental impact assessments. When completed, you should have an understanding of the direction the courts have taken and are taking related to land use and environmental protection. Hopefully you will also have fun speculating on current urban development and environmental management controversies and how they might be affected by law.

In our legal system, law and the practice of law are based on precedent. To work with legal concepts requires that you develop skills in analyzing laws, cases, and the application of law to different situations or scenarios. Specifically, by the end of the course you should have:

- Gained an appreciation of the role law plays in implementing public policy
- Learned the basic context of land use and environmental law through exploration of statutes and case law; gained a legal vocabulary
- Gained an understanding of legal principles through reading US Supreme Court and some lower court decisions related to land use and environmental law
- Honed fundamental skills in reading, researching, and working with cases, laws, regulations and other legal materials;
- Developed an understanding of the positive and negative consequences of developing and implementing regulatory controls.

READINGS

There are two required texts. Other readings will be available on-line in the electronic reader. Readings are a mixture of cases, texts, journal articles, and other essays/commentaries.

Jourdan, Dawn and Eric Strauss. 2015. *Planning for Wicked Problems: A Planner's Guide to Land Use Law*. New York: Routledge.

Freyfogle, Eric T. 2003. *The Land We Share: Private Property and the Common Good*. Washington, DC: Island Press.

ASSIGNMENTS

Assignments for all Students: The class is primarily a lecture course with limited in-class discussion and short case presentations by students. There are five components to the course grade. These are:

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| 1. Law School Brief (One of three cases) | 5 points |
| 2. Video Summary and Reaction Essay (1 essay; 1 single-spaced page) | 6 points |
| 3. Controversy - Legal Analysis – one paper 10-15 pages | 15 points |
| 4. Three Exams (Two exams at 15 points and Final at 20 points) | 50 points |
| 5. Forum Assignments (8 @ 3 points each) | <u>24 points</u> |
| | 100 points |

Additional Grad Assignment: Graduate Students have one additional assignment – a second law school brief. There will be a sign up sheet for the opinion to be read; students will present them in class when they appear in lecture. **5 points.** (Grad course grade out of 105 pts.)

Assignments are briefly described below. Note that more detailed directions/assignments will be posted on the UVA COLLAB website and discussed in class; the descriptions below are simply intended to give you a sense of what you can expect to be doing over the semester.

Assignments must be turned in electronically in file drop on Collab by the beginning of class on the date due. In written composition, usage and punctuation count. The professor has several handouts of common (and unacceptable) mistakes that will result in a lower grade. Use these handouts when you write!

Late Assignments: Late assignments are a problem. They raise ethical issues (*Equal protection: if I give you more time, do I need to give everyone more time?*); they affect the pacing of the course (*since assignments endeavor to build upon each other*); and they raise the specter for the professor of being taken advantage of or played for a fool (*did your grandmother really die?*) On the other hand, I hate to read hastily scrawled, ill thought-out papers. Please endeavor to turn your papers in on time; it will make everyone happier. If you have a legitimate reason for a late paper, I will certainly consider extensions. But I do need to be approached before the assignment is due and not on the day that the assignment is due. If you turn something in without a previously agreed upon extension, late assignments will be reduced 10% by every day they are late.

ASSIGNMENTS

Assignment 1: Law School Brief

Objective: To give you a first experience in reading a legal ruling and distilling it down to its most significant points (the take away). Law school briefs are building blocks that help you assemble an understanding of law and precedent.

Task: You be assigned one of three central cases in land use and environmental law. You will be asked to submit a case summary on line to be graded. We will discuss the cases in the second class period. Graduate students do a second brief which they will present in the lecture in which the case features. There will be a sign up sheet for that brief.

Assignment 2: Video Essay

Objective: To give you exposure to a controversy associated with environmental law as interpreted by a film maker.

Task: You will need to watch the video. I will provide some questions to prompt your thoughts. But, in general, you will be asked to react to the video (summarize, identify what you considered the most striking / interesting / controversial parts, and identify the legal issues.) This year the video will be *The Devil We Know*, about Dupont in West Virginia.

Assignment 3: Controversy Analysis

Objective: To help you think about how the law might apply to current controversies in land use and environmental policy.

Task: The professor will prepare one to two scenarios based on real world facts. You get to choose one. In the assignment, you will analyze the situation, identify the critical legal issues, conduct legal research around the topic, cite at least two cases of pertinence (and attach a law school brief for each one), and then speculate on the ultimate legal outcome. Your legal research, reasoning and argumentation are most important in these assignments. As you will see, the best answer for most legal questions is “it depends.” We want to know what it might depend upon!

Assignment 4: Exams

Objective: To ensure that you integrate the various elements of the course and complete the readings. The final exam will be cumulative. It will surely include an essay with a scenario (just like the current controversy analysis above).

Task: Complete an exam. The exam will be a closed book, in-class exam held during exam week.

Assignment 5: Class Participation through Forum Assignments

We are going to try to foster some discussion of the readings (and contemporary issues as they arise through the semester) through the Forum function on Collab. The Forum function will be used to discuss the Freyfogle readings, as well as various journal or newspaper readings assigned to support/expand upon the texts. There will be 8 Forum Assignments of approximately 500 words each. (About 1 single-spaced page.)

In addition in just about every class period there will be an opinion to read, we will discuss those opinions in class; writing a law student brief after you’ve read it is one way to come prepared.

GRADING SCALE

Grades will be assigned according to the UVA undergraduate scale.

COURSE WEBSITE

There is a COLLAB site for the course. I will use the website to communicate and post class information, including readings. I will also use it to keep track of grades. You will use the Forum Function there too. *The power points will be posted after class, not before; I also reserve the right to remove slides from the presentations as well. Why? I am grappling with the stupefying effect they seem to have on class*

participation and note taking.

POLICY ON LAPTOPS

This class will adhere to the “NO LAPTOPS OR ELECTRONIC DEVICES RULE.” (I’ve introduced one exception—if you use a pen on your iPad or tablet for note taking.)

Why? The reasons are multiple: 1) Students have been known to text, shop, do email, and even watch videos while in class. This is irritating, rude and distracting. 2) It will make you a better student. There is some recent research on the differences in retention and learning between students who take notes with their computers and those who take notes longhand with a pen and paper. (See: <http://pss.sagepub.com/content/early/2014/04/22/0956797614524581.abstract>; you can undoubtedly get the full paper through UVA library. The New York Times also covered this in: http://www.nytimes.com/2014/06/03/science/whats-lost-as-handwriting-fades.html?_r=0.) The Sage research article title alone “The Pen is Mightier than the Keyboard” should give you a sense of the findings. Manual note taking makes your brain work; laptops tend to result in verbatim transcripts.

ACADEMIC INTEGRITY AND DISABILITY ACCOMMODATION

UVA has an honor code, which must be followed. Please sign each assignment using the honor code; it is displayed in the classroom so please also sign the in-class exams.

But just to drive some details home, all work done for the course must be your own. The work must be original and prepared for this class. Plagiarism is unacceptable. Copying the work of another and not citing it; lifting text from the Internet; or even presenting ideas that are not your own without proper attribution are all examples of plagiarism. Submitting work for this class that has been done for another class also counts as plagiarism, it is called “plagiarizing oneself.” Don’t do it!

If you have a disability and need academic accommodation, please notify me as soon as possible to arrange needed support.