

LAND USE LAW
UNIVERSITY OF FLORIDA LEVIN COLLEGE OF LAW
SPRING 2023 – LAW 6460 (#27358) – 3 CREDITS
SYLLABUS AND CLASS PROCEDURES

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Holland 307

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Office Hours: I am typically in my office Monday through Friday. I do not restrict my contact with students to a few hours per week. If I am not in the office when you want to meet, and you would like to set up an appointment, please send me an email message.

MEETING TIME: Tuesdays and Thursdays, 10:35 am to 12 noon

LOCATION: Holland 382

COURSE DESCRIPTION AND OBJECTIVES:

A study of the legal aspects of the allocation and development of land resources; private controls through covenants and easements; public regulation and control through zoning and subdivision regulation; social, economic and political implications of land regulations; eminent domain; selected current problems such as growth management, historic preservation, environmental regulations, and urban development.

STUDENT LEARNING OUTCOMES:

By the end of this course, it is my hope that students will:

- gain an understanding of the interplay between government regulation of land use and the rights and responsibilities of property owners,
- be experienced in using cases as tools for advancing a client's interests,
- appreciate the many intersections between modern American land use regulation and environmental and sustainability law,
- write well-organized answers to essay questions that spot issues, relate the relevant law to the pertinent facts, and resolve those issues,
- understand the diverse and evolving local government toolbox for regulating land use.

REQUIRED READING MATERIALS:

THERE IS ONE REQUIRED TEXT FOR THIS CLASS: CHARLES M. HAAR & MICHAEL ALLAN WOLF, LAND USE PLANNING AND THE ENVIRONMENT: A CASEBOOK (2010).

ADDITIONAL ASSIGNMENTS (INCLUDING NEW CASES) WILL BE POSTED ON THE CANVAS SITE FOR THIS COURSE OR DISTRIBUTED BY EMAIL.

Please be sure to register for the Canvas course and have any required materials with you in print or easily accessible electronic form in class. You are responsible for checking your Canvas page and the e-mail connected to the page on a regular basis for any class announcements or adjustments.

COURSE EXPECTATIONS AND GRADING EVALUATION:

I expect that students will have done the assigned readings for each class. I will rely on student participation to facilitate the learning of challenging concepts. Students who participate at a consistently high level may be rewarded by a one-half grade bump (e.g., from B+ to A-). I reserve the right to lower the grades of students who disrupt the learning environment by a one-half grade bump.

THERE WILL BE TWO GRADED TESTS DURING THE SEMESTER: The first test will be a multiple-choice, closed-book test in which you will be asked to identify cases we have covered to that point in the semester. The score on the first test will range from 0 to 20 points. The second test will be a three-hour, unlimited-source, open-book final examination. You will be able to choose the day during the exam period on which to take your final examination. The score on the second test will range from 0 to 80 points.

CLASS ATTENDANCE POLICY:

Attendance in class is required by both the ABA and the Law School. Each student is permitted five class absences during the semester. Within one week of missing class, you are responsible for reporting to me via email that you missed class. There is no need to explain your absence, as I do not differentiate between excused and non-excused absences. I reserve the right to reduce the grade for a student with excessive absences and to bar the student from taking the final exam. The law school's policy on attendance can be found [here](#).

UF LEVIN COLLEGE OF LAW STANDARD SYLLABUS POLICIES:

Other information about UF Levin College of Law policies, including compliance with the UF Honor Code, Grading, Accommodations, Class Recordings, and Course Evaluations can be found at this link: <https://ufl.instructure.com/courses/427635/files/74674656?wrap=1>.

ABA OUT-OF-CLASS HOURS REQUIREMENTS:

ABA Standard 310 requires that students devote 120 minutes to out-of-class preparation for every "classroom hour" of in-class instruction. Each class is approximately 1 1/2 hours in length, requiring at least 3 hours of preparation outside of class.

INTERNET USE IN THE CLASSROOM:

I expect that during each class all students will be prepared to conduct research on the internet (usually Lexis or Westlaw) using a laptop, tablet, or other means. Of course, students are not to use these devices (including smart phones) for any non-pedagogical purposes.

COURSE SCHEDULE OF TOPICS AND ASSIGNMENTS

You will find below a list of the topics that I anticipate we will cover during the semester, along with a rough estimate of how many class hours per topic. Please note, however, that the pace at which we cover the materials in our reading list will depend on your pace of learning. I will not leave a topic until I believe that the students who are prepared for class have a good understanding of the material. In the event we are moving more slowly than anticipated, I will not speed up to cover all of these readings. Instead, I will make cuts in the assigned readings.

Class 1 *Nekrilov v. City of Jersey City*, 45 F.4th 662 (3d Cir. 2022) (majority opinion only)

Class 2 Chapter One: 4-14 (the idea of a comprehensive plan) and 26-44 (the legal effect of the plan, common ground, and the role of the attorney) (Chiavola, Shidel)

Classes 3-4 Chapter Two: 45-93 (private nuisance) (Amphitheaters, Rose, Rodrigue, Powell, Turner, Boomer, Prah)

Class 5 Chapter Two: 93-117 (public nuisance, the mixture of common law and regulation, and going "too far") (White and Ward, Gill, Mahon)

Class 6 Chapter Three: 119-32 (spread of zoning and power to zone) (Respublica, Kline)

Classes 7-8 Chapter Three: 132-47 (constitutionality of zoning) (Euclid, Nectow)

Classes 9-10 Chapter Three: 147-69 (early zoning in state courts) (Arverne Bay, Vernon Park, Rockhill, Eves)

Class 11 Chapter Three: 169-91 (use or ownership?, accessory uses and home occupations) (Clemons, Norwood Heights, Marchand, *City of Miami v. Airbnb, Inc.* (on Canvas))

Classes 12-13 Chapter Three: 191-243 (Equal Protection, Due Process, and Takings Clause protections) (Ronda Realty, Belle Terre, Penn Central, Kelo)

Class 14 Chapter Four: 245-69 (nonconforming uses and vested rights) (Gage, Moon, Parkview)

Classes 15-16 Chapter Four: 270-295 (rezoning) (Kuehne, MacDonald, Fasano, Snyder)

Class 17 Chapter Four: 305-28 (variances and special exceptions) (Richard Roeser, Cleburne, Ames)

FIRST TEST

Classes 18-22 Chapter Five: 329-38, 355-400, 413-51 (regulatory takings) (Agins, First English, Nollan, Lucas, Dolan, Palazzolo, Tahoe-Sierra, Gove); EDITED VERSIONS OF: *Stop the Beach Renourishment, Inc. v. Fla. Dep't of Env'tl. Prot.*, 560 U.S. 702 (2010), *Koontz v. St. Johns River Water Mgmt. Dist.*, 570 U.S. 595 (2013), *Murr v. Wisconsin*, 137 S. Ct. 1933 (2017), *Knick v. Twp. of Scott*, 139 S. Ct. 2162 (2019), *Cedar Point Nursery v. Hassid*, 141 S. Ct. 2063 (2021) (on Canvas).

Classes 23-24 Chapter Six: 453-66, 484-505 (exclusionary zoning in state and federal law) (Mount Laurel, Warth, Arlington Heights, Cuyahoga Falls)

Class 25-26 Chapter Six: 505-14, 523-37 (excluding uses) (Young, Westchester), EDITED
VERSION OF *Reed v. Town of Gilbert*, 135 S. Ct. 2218 (2015) (on Canvas).

FINAL EXAM