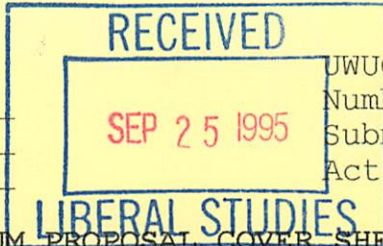


LSC Use Only
Number: _____
Submission Date: _____
Action-Date: _____



JWUCC USE Only
Number: 95-32u
Submission Date: _____
Action-Date: _____

81

App - 12/12/95
Sen APP - 2/6/96

CURRICULUM PROPOSAL COVER SHEET

University-Wide Undergraduate Curriculum Committee

I. CONTACT

Contact Person Gail S. Sechrist/Whit Watts Phone _____
Department Department of Geography and Regional Planning--Planning

II. PROPOSAL TYPE (Check All Appropriate Lines)

COURSE Land Use Law
Suggested 20 character title
 New Course* RP 458 Land Use Law
Course Number and Full Title
 Course Revision _____
Course Number and Full Title
 Liberal Studies Approval+ _____
for new or existing course Course Number and Full Title
 Course Deletion _____
Course Number and Full Title
 Number and/or Title Change _____
Old Number and/or Full Old Title

New Number and/or Full New Title
 Course or Catalog Description Change _____
Course Number and Full Title

PROGRAM: Major Minor Track
 New Program* _____
Program Name
 Program Revision* _____
Program Name
 Program Deletion* _____
Program Name
 Title Change _____
Old Program Name

New Program Name

III. Approvals (signatures and date)

Gail S. Sechrist 9/11/95 Department Curriculum Committee
Susan Inker 9-11-95 Department Chair
[Signature] College Curriculum Committee
[Signature] 9/25/95 College Dean

+Director of Liberal Studies (where applicable)

*Provost (where applicable)

Part II. Description of Curriculum Change

1. Course Syllabus of Record

RP 458 Land Use Law

I. Catalog Description

RP 458 Land Use Law
Prerequisite: RP 350

3c-01-3sh

Introduces students to principles of land use law. The course focus is on federal constitutional principles and key Supreme Court cases, especially as they relate to actions of local units of government and municipal planning practice. The course deals with the present state of land use law and with current trends and issues.

II. Course Objectives

- 1. Students will be able to know the significance, facts, and constitutional issues involved in literally two dozen classic supreme court cases.
- 2. Students will demonstrate an understanding of legal implications involved in various local planning and regulatory activities.
- 3. Students will gain an appreciation for the dynamic of land use and how it simultaneously animates, sustains, and constrains planning practice.
- 4. Students will be able to identify key legal principles involved in a variety of planning scenarios.

III. Detailed Course Outline

- A. Historical Background (1 week)
 - 1. Roman and Feudal Antecedents
 - 2. Early 19th Century Cases
- B. Common Law Controls (1 week)
 - 1. The Law of Waste
 - 2. The Law of Nuisance
 - 3. The Law of Trespass
 - 4. Interests, Vested Rights, and Entitlements
- C. Private Law Devices (1 week)
 - 1. Defeasible Fees
 - 2. Easements
 - 3. Deed Restrictions and Covenants
 - 4. Bundle of Rights

- D. Delegation of Powers (1 week)
 - 1. Dillon's Rule
 - 2. Delegation from One Branch to Another
 - 3. Case Illustrations

- E. Void for Vagueness (1 week)
 - 1. Vagueness Doctrine
 - 2. Overbreadth Doctrine
 - 3. Standards
 - 4. Case Illustrations

- F. Procedural Due Process (2 weeks)
 - 1. Due Process
 - 2. Separation of Powers
 - 3. Legislative, Quasi-Judicial, and Administrative Decision Making
 - 4. *Ex Parte* Contracts
 - 5. Findings of Fact
 - 6. Notice, Hearing, and Cross Examination
 - 7. Impropriety
 - 8. Promptness, Records, and Fairness
 - 9. Case Illustrations

- G. Substantive Due Process (2 weeks)
 - 1. Public Use and Public Purpose Tests
 - 2. Presumption of Constitutionality
 - 3. Fairly Debatable Rule
 - 4. Arbitrary and Capricious
 - 5. Rational Nexus Test
 - 6. Case Illustrations

- H. Equal Protection (1 week)
 - 1. Equal Protection
 - 2. Suspect Classification
 - 3. Strict Scrutiny
 - 4. Case Illustrations

- I. Just Compensation ('takings') (3 weeks)
 - 1. Taking
 - 2. Eminent Domain
 - 3. Regulatory Taking
 - 4. Inverse Condemnation
 - 5. Development Executions
 - 6. Nexus and Ripeness
 - 7. Average Reciprocity of Advantage and Balancing Tests
 - 8. Case Illustrations

- J. Freedom of Speech and Religion (1 week)
 - 1. Prior Restraint and Compelling State Interests
 - 2. Overbreath Doctrine
 - 3. Vagueness
 - 4. Content vs. Time, Place, and Manner
 - 5. Commercial vs. Non-Commercial Speech
 - 6. Case Illustrations

IV. Evaluation Methods

The final grade for the course will be determined by the following:

- 50% Tests: Mid-term and final consisting of multiple choice and short answer questions.
- 25% Weekly Quizzes: Quizzes will be given each week on textbook readings.
- 10% Class Participation.
- 15% Pennsylvania Case Abstracts: Each student will examine three Pennsylvania land use cases and prepare a 2-3 page abstract that identifies the: 1) type of regulation, 2) land use issue, 3) type of legal challenge, 4) remedy sought, 5) constitutional issues, 6) facts, 7) decision, and 8) opinion of the court.

Grading Scale: 90-100 A; 89-80 B; 79-70 C; 69-60 D; <59 F

V. Required Texts

Altshuler, B. and C. Sgroi (1992) Understanding Law in a Changing Society, Prentice Hall.

Blasser, B. and A. Weinstien, eds. (1989) Land Use and the Constitution, APA Press.

Mandelker, D. (1993) Land Use Law, Michie Company.

VI. Select References

Altshuler, B. and C. Sgroi. (1992) Understanding Law in a Changing Society, Prentice Hall, New York.

Blasser, B. and A. Weinstien, eds. (1989) Land Use and the Constitution, APA Press, Chicago.

Callies, D., ed. (1993) After Lucas: Land Use Regulation and the Taking of Property Without Compensation, American Bar Association, State and Local Government Law Section, Chicago.

Frelich, R. and D. Busheck, eds. (1995) Exactions Impact Fees and Dedications: Shaping Land-Use Development and Funding Infrastructure in The Dollan Era, American Bar Association, State and Local Government Law Section, Chicago.

Hill, G., ed. (1993) Regulatory Taking: The Limits of Land Use Controls, American Bar Association, State and Local Government Law Section, Chicago.

- Hippler, T. (1987) "Reexamining 100 Years of Supreme Court Regulatory Takings Doctrine: The Principles of Noxious Use, Average Reciprocity of Advantage and Bundle of Rights from Mugler to Keystone Bituminous Coal," *Environmental Affairs*, 14:653-725.
- Karp, J. (1990) "The Evolving Meaning of Aesthetics in Land Use Regulation," *Columbia Journal of Environmental Law*, 15:307-317.
- Kayden, J. (1989) "Judges as Planners: Limited or General Partners?" in Zoning and the American Dream, C. Harr and J. Kayden (eds.), APA, Chicago.
- Krueckberg, D. (1995) "The Difficult Character of Property," *APA Journal*, Summer 1995.
- Large, D. (1987) "The Supreme Court and the Taking Clause: The Search for a Better Rule," *Environmental Law*, 18:3.
- Lewis, G. (1985) "Hawaii Housing Authority vs. Midkiff: The Public Use Requirement in Eminent Domain" *Environmental Law*, 15:565-591.
- Mandelker, D. (1993) Land Use Law, Michie Company, Chicago.
- Mandelker, D. and J. Gerard. (1986) Federal Land Use Law, American Bar Association, State and Local Government Law Section, Chicago.
- Merriam, D. (1988) "Basic Constitutional Issues," Workshop Handout AICP Training Service, APA Press, Chicago.
- Naiman, J. (1990) Judicial Balancing of Use for Public Property: The Paramount Public Use Doctrine, *Environmental Affairs*, 17:893-929.
- Nicholas, J., et.al. (1990) "Legal Evolution, Current Legal Status, and Future of Impact Fees" in A Practitioners Guide to Impact Fees, APA Press, Chicago.
- Petti, J. (1987) "Ex Parte Communications in Local Land Use Decisions," *Environmental Affairs*, 15:180-216.
- Porter, D. (1992) "The Lucas Case," *Urban Land*, September.
- Powelson, J. (1988) The Story of Land, Lincoln Institute for Land Use Policy, Cambridge.
- Roddewig, R. and C. Duerksen. (1989) Responding to the Takings Challenge: A Guide for Officials and Planners, PAS 416, APA Press, Chicago.
- Roddweig, R. and J. Durksen. (1989) "Measuring Regulatory Hardship," *Urban Land*, January.

Ryan, R. (1970) Pennsylvania Zoning Law and Practice, 2 vols., Bisel, Philadelphia.

Smardon, R. and J. Karp. (1993) The Legal Landscape, Van Nostrand, New York.

Toulmin, S., et.al. (1979) "Legal Reasoning" in An Introduction to Reasoning, Macmillian, New York.

Wright, R. (1994) Land Use, West Publishing, St. Paul.

VIDEOS

Brower, D. (1992) Shifting Sands: 1992 Supreme Court Rulings on Land Use, APA, Chicago.

Connors, D. (1988) The Takings Issue, APA, Chicago.

Durksen, C. (1990) Takings and Damages, APA, Chicago.

Mandelker, D. (1990) Consistency in Comprehensive Planning, APA, Chicago.

Merriman, D. (1988) Basic Constitutional Issues, APA, Chicago.

SELECT CASES

Agins vs. City of Tiburon, 477 U.S. 225 (1980)

Berman vs. Parker, 348 U.S. 26, 75 S. Ct. 989 (1954)

Cicello vs. City of New Orleans, 154 LA 283 So. (1923)

Commonwealth vs. National Gettysburg Battlefield Tower, Inc., 311 A. 2d 588 (PA 1973)

Dollan vs. City of Tiagard, 854 P.2d 437 (OR 1993)

First English Evangelical Lutheran Church of Glendale vs. County of Los Angeles, 482 U.S. 304, 107 S. Ct. 2378 (1987)

Hadacheck vs. Sebastian, 239 U.S. 394, 36 S. Ct. 143 (1915)

Hawaii Housing Authority vs. Midkiff, 467 U.S. 229 104 S. Ct. 2321 (1984)

Keystone Bituminous Coal Association vs. De Benedictis, 480 U.S. 470 (1987)

Loretto vs. Teleprompter Manhattan CATV Corp., 458 U.S. 419 (1982)

Lynch vs. Urban Redevelopment Authority of Pittsburgh, 496 A. 2d. 1331 Commonw. (1985)

Members of City Council of Los Angeles vs. Taxpayers for Vincent, 466 U.S. 789, 104 S. Ct. 2118 (1984)

Mugler vs. Kansas, 123 U.S. 623, 8 S. Ct. 273 (1987)

Nollan vs. California Coastal Commission, 483, U.S. 825, 107 S. Ct. 3141 (1987)

Penn Central Transportation Company vs. New York City, 438, U.S. 104, 98 S. Ct. 2646 (1978)

Pennsylvania Coal Company vs. Mahon, 260 U.S. 393, 43 S. Ct. 158 (1922)

Pruneyard Shopping Center vs. Robins, 447 U.S. 74, 100 S. Ct. 2035 (1980)

San Diego Gas and Electric Company vs. City of San Diego, 450 U.S. 621, 101 S. Ct. 1287 (1981)

St. Louis Gunning Advertising vs. St. Louis, 253 Mo. 99, 137 929 (1911)

Village of Belle Terre vs. Boraas, 415 U.S. 1, 94 S. Ct. 1536 (1974)

Village of Euclid vs. Ambler Realty, 272 U.S. 364, 47 S.Ct. 14 (1926)

Welch vs. Swasey, 214 U.S. 91, 29 S. Ct. 567 (1909)

Williamson County Regional Planning Commission vs. Hamilton Bank, 473 U.S. 172, 105 S. Ct. 3108 (1985)

2. Course Analysis Questionnaire

A. Details of the Course

- A1. This will be a core course for the B.S. in Regional Planning.
- A2. This course does not require changes in any other course in the department.
- A3. This course was offered as a Special Topics course during the Spring of 1992 and Fall of 1991. Thirteen students completed the course during these two semesters.
- A4. This is a dual level course.
- A5. This course is not to be taken for variable credit.
- A6. Similar courses are offered in about half of the planning programs nationwide, for example,

Iowa State University, California Polytechnic State University, and the University of Virginia (see graduate proposal).

- A7. The Planning Accreditation Board (PAB) requires that planning curricula include a knowledge component covering the administrative, legal, and political aspects of plan-making and policy implementation. In addition, the PAB requires familiarity with at least one area of specialized knowledge of a particular subject or set of issues. This course is designed to fulfill this knowledge component and expand upon the department's land use specialization.

B. Interdisciplinary Implications

- B1. This course will be taught by a single professor.
- B2. This course does not overlap with other university course offerings.
- B3. Seats will be made available to students in the School of Continuing Education upon request.

C. Implementation

- C1. No new faculty are needed to teach the course. One section of this course will be offered each year. One of the planning faculty will be teaching one less geography course to accommodate this course in the curriculum. Other geography faculty will be able to teach the course currently taught by the planner.
- C2. Other Resources
- Current space allocations are sufficient to offer this course.
 - No additional equipment will be required to support this course.
 - The department's budget is sufficient to purchase supplies for this course.
 - Library holdings are adequate.
 - No travel costs are associated with this course.
- C3. No grant funds will be used to support this course.
- C4. This course will be offered once a year.
- C5. One section of this course will be offered per year.
- C6. Twenty students (15 undergraduates and 5 graduates) will be accommodated in this course. This number represents the maximum enrollment we would anticipate among our students.
- C7. The PAB places no restrictions on the size of course offerings.

D. Miscellaneous

No additional information is necessary.