

LAW 313

A LEGAL HISTORY of PROPERTY & the CITY—Syllabus

September 4th Introductions

September 11th Legal History, Property, Cities

Required Reading:

James Willard Hurst, *Law and the Conditions of Freedom in the Nineteenth-Century United States*, “The Release of Energy,” 3-18 (excerpt).

Morris Cohen, “Property and Sovereignty,” (1927) 13 *Cornell Law Quarterly* 8-26 (excerpt).

Jane Jacobs, *The Death and Life of Great American Cities* (1961), “Chapter 7: The Generators of Diversity” (143-151) and “Chapter 12: Some Myths about Diversity” (222-238).

September 18th Property & the Colonial City

Required Reading:

Renisa Mawani, “Genealogies of Land: Aboriginality, Law, and Territory in Vancouver’s Stanley Park” (2005) 14:3 *Social & Legal Studies* 315-339.

Douglas C Harris, “[Property and Sovereignty: An Indian Reserve and a Canadian City](#)” (2017) 50:2 *UBC L Rev* 321-392.

Vancouver Board of Parks and Recreation / City of Vancouver, [Exploring Park Board’s Colonial Roots and Current Practices](#) (July 16, 2018).

September 25th Property and Local Government

Required Reading:

Hendrik Hartog, *Public Property and Private Power: The Corporation of the City of New York in American Law, 1730-1870* (Chapel Hill: The University of North Carolina Press, 1983), 1-10.

Gerald E. Frug, “Property and Power: Hartog on the Legal History of New York City” (1984) 9:3 *American Bar Foundation Research Journal* 673-682.

Mariana Valverde, *Everyday Law on the Street: City Government in an Age of Diversity* (Chicago: University of Chicago Press, 2012), Chapter 6: “Putting Diversity on the Menu’: The Municipal Corporation and the Micromanagement of Street Life,” 141-164.

October 2nd Nuisance and the City

Required Reading:

Eric Reiter, “Nuisance and Neighbourhood in Late Nineteenth-Century Montreal: *Drysdale v Dugas* in its Contexts” in Tucker, Muir & Ziff, eds, *Property on Trial: Canadian Cases in Context* (Toronto: The Osgoode Society, 2012), 35-69.

Frederick Law Olmsted, Jr., *The Smoke Nuisance* (Washington, D.C.: American Civic Association, Dept. of Nuisances, 1911), 3-7.

Cyrus Locher, “The Smoke Nuisance and the Law” in *The Smoke Nuisance* (Washington, D.C.: American Civic Association, Dept. of Nuisances, 1911), 21-30.

Nicholas Blomley, *Rights of Passage: Sidewalks and the Regulation of Public Flow* (London: Routledge, 2010), 29-34, 57-72.

October 4th ***DUE DATE: Research Question and Preliminary Bibliography***

October 9th Private Land Use Planning

Required Reading:

[*Tulk v Moxhay*](#) [1848] EWHC Ch J34 (22 December 1848).

SI George, “*Tulk v Moxhay* restored—to its historical context” (1990) 12:2 *Liverpool Law Review* 173-193.

Robert M Fogelson, *Bourgeois Nightmares: Suburbia, 1870-1930* (New Haven: Yale University Press, 2005), Chapter 1: Suburbia, 1870-1930: The Quest for Permanence”, 23-115.

October 16th Public Land Use Planning**Required Reading:**

Eran Kaplinsky, “The Zoroastrian Temple in Toronto: A Case Study in Land Use Regulation, Canadian-Style” in Tucker, Muir & Ziff, eds, *Property on Trial: Canadian Cases in Context* (Toronto: The Osgoode Society, 2012), 223-257.

Mariana Valverde, “Seeing Like a City: The Dialectic of Modern and Premodern Ways of Seeing Urban Governance” (2011) 45:2 *Law & Society Review* 277-312.

Nathanael Lauster, *The Death and Life of the Single-Family House: Lessons from Vancouver on Building a Livable City*, 57-86.

October 23rd Gentrification**Required Reading:**

David Harvey, “The Right to the City” (2008) 53 *New Left Review* 23-40.

David Ley, *The New Middle Class and the Remaking of the Central City* (Oxford: Oxford University Press, 1996), “The Changing Inner-City Housing-Market,” 33-80.

October 30th Taking Property**Required Reading:**

Eric Adams and Jordan Stanger-Ross, “Promises of Law: The Unlawful Dispossession of Japanese Canadians” (2017) 54 *OHLJ* 687-736.

Bret Edwards, “Breaking New Ground: Montreal–Mirabel International Airport, Mass Aeromobility, and Megaproject Development in 1960s and 1970s Canada” (2016) 50:1 *Journal of Canadian Studies* 5-35.

Tina Loo, “The View from Jacob Street: Reframing Urban Renewal in Postwar Halifax” (2019) *Acadiensis* (forthcoming).

November 1st DUE DATE: Introduction and Outline

November 6th Exclusion & Race**Required Reading:**

Richard RW Brooks and Carol M Rose, *Saving the Neighborhood: Racially Restrictive Covenants, Law, and Social Norms* (Cambridge, Mass: Harvard University Press, 2013), 140-167, 263-267.

HS Robinson, "Limited Restraints on Alienation" (1950) *The Advocate* 250-251.

Constance Backhouse, "Bitterly Disappointed" at the Spread of "Colour-Bar Tactics": Viola Desmond's Challenge to Racial Segregation, Nova Scotia, 1946" in *Colour-Coded: A Legal History of Racism in Canada, 1900-1950* (Toronto: Osgoode Society, 1999), 226-271, 402-431.

November 13th Airspace and the Rising City**Required Reading:**

Theodore Steinberg, "Three-D Deeds: The Rise of Air Rights in New York" in *Slide Mountain, or, The Folly of Owning Nature* (Berkeley: University of California Press, 1995), 135-165.

Douglas C Harris, "Condominium and the City: The Rise of Property in Vancouver" (2011) 36 *Law & Soc Inq* 694-726.

Edward Glaeser, "[How Skyscrapers Can Save the City](#)" *The Atlantic*, March 2011.

Antonio Voce and Nick Van Mead, "[Cities from Scratch](#)" *The Guardian* (15 February 2019).

November 20th Student Presentations**November 27th Student Presentations****December 18th DUE DATE: Final Paper**