

C&RP 761 - Land Use Controls

Course Description

This is an introductory course in land use controls for planning students. The course is designed to achieve certain purposes. First, it is intended to provide an introduction to the American legal system for non-law students. As planning takes place within this system and is subject to its constraints, an understanding of how law (and lawyers) function is crucial to the planner. Second, the course is intended to provide a substantive knowledge of one particular area of law--that of land use controls. Finally, the course is intended to serve as preparation for additional planning law courses in City and Regional Planning or elsewhere.

Class will proceed largely through the reading of cases and class discussion. Students should be prepared to discuss assigned readings in class. There will be a mid-term and final examination, which will test the student's understanding of and ability to work with assigned course materials.

The required text is Callies, Freilich, & Roberts, Cases and Materials on Land Use (3d ed.), West Group 1999 (hereafter "Text"). Additional cases will be distributed in class.

Evaluation

There will be a one-hour in-class mid-term examination and a two-hour final examination. The mid-term will be worth 25% of the course grade and the final examination will be 75% of the course grade. Class participation will not play a role in grade determination except that students who are persistently unprepared (or absent when called upon) for discussion of the cases and other assigned materials may, after appropriate warning, have their final grades reduced by one letter grade (e.g. A- to B-). All grading will be designed to measure how well the student satisfies the objectives of the course.

Each question or section on the examination will be assigned a base letter grade, translated into a number on a four point scale, e.g., A = 4.0; A/A- = 3.85; A- = 3.7; A-/B+ = 3.5; B+ = 3.3; etc. The number will be weighted and averaged as appropriate to derive a final grade. The numbers required to achieve a certain letter grade for the course are as follows:

| | | | |
|----|------|----|------|
| A | 3.70 | C+ | 2.15 |
| A- | 3.45 | C | 1.85 |
| B+ | 3.15 | C- | 1.50 |
| B | 2.85 | D+ | 1.15 |
| B- | 2.50 | D | .85 |
| | | E | <.85 |

Course Objectives

At the conclusion of this course the student should:

1. be familiar with and be able to describe the basic structure of the American legal system.
2. be able to read critically and analyze legal decisions and basic statutory materials related to the content of the course.
3. be familiar with and able, in a critical fashion, to deal with legal and planning issues raised by the assigned materials read for and discussed in class.

Outline of Topics

1. Nuisance
2. Zoning
 - a. the power to zone
 - b. eminent domain and taking
 - c. in accordance with a comprehensive plan
 - d. zoning administration
 - e. use classifications
 - f. residential use classifications
 - g. First Amendment
 - h. exclusionary and inclusionary zoning
 - i. flexible zoning techniques
 - j. initiative and referendum
3. Development controls
4. Growth management
5. Aesthetics and Preservation

READINGS

All cases (including notes immediately following the cases) and additional textual material listed should be read. Time may not permit discussion of all cases in class.

1. Nuisance

Text at 1-5.

Bove v Donner-Hanna Coke Corporation (NY App 1932). Text at 5.

2. Zoning

a. *The Power to Zone*

Text 23-24.

Pennsylvania Coal Co. v Mahon (US 1922). Text at 278.

Village of Euclid v Ambler Realty Co. (US 1926). Text at 24.

b. *Eminent Domain and Taking*

Hawaii Housing Authority v Midkiff (US 1984). Text at 256.

Text 261-265.

Penn Central Transportation Co. v City of New York (US 1978). Text at 302.

Text 321-322.

Text 265-266.

Loretto v Teleprompter Manhattan CATV Corp. Text at 266.

Text 274-275.

Nollan v California Coastal Commission (US 1987). Text at 208.

Lucas v South Carolina Coastal Council, (US 1992). Text at 281.

Dolan v City of Tigard (US 1994). Text at 220.

First English Evangelical Lutheran Church of Glendale v County of Los Angeles (US 1987).

Text 332-335.

Williamson County Regional Planning Commission v Hamilton Bank (US 1985). Text at 335.

Text 345-346.

Text 347-348.

c. In Accordance with a Comprehensive Plan

Text 12-13.

Udell v Haas (NY 1968). Text at 13.

Text 399-401.

Board of County Commissioners of Brevard County v Snyder (FL 1993). Text at 401.

d. Zoning Administration

Text 71-72.

Bartram v Zoning Commission of City of Bridgeport (CT 1949). Text at 72. Amendment

Gorham v. Town of Cape Elizabeth (ME 1993), Conditional Use.

Topanga Association for a Scenic Community v County of Los Angeles (CA 1974). Text at 100.
Variance.

Text 107-108.

City of Los Angeles v Gage (Cal App 1954). Text at 108. Nonconforming Use.

Text 116-117.

Avco Community Developers, Inc. v South Coast Regional Commission (CA 1976). Vested Rights.

Text at 117. Vested Rights.

Text 131-136.

e. Use Classifications

Standard State Zoning Enabling Act. Text at 36.

Text 40-43.

Pierro v Baxendale (NJ 1955). Text at 44.

Text 55-59.

f. Residential Use Classifications

Text 513-514.

Village of Belle Terre v Boraas (US 1977). Text at 514.

City of Cleburne, Texas v Cleburne Living Center (US 1985). Text at 517.

City of Edmonds v Oxford House, Inc. (US 1995).

g. First Amendment

Text at 362-363.

City of Renton v Playtime Theatres, Inc. (US 1986). Text at 363.

Text at 382-383.

Korean Buddhist Dae Won Sa Temple of Hawaii v Sullivan (HA 1998). Text at 383.

h. Exclusionary and Inclusionary Zoning

Text 464-467.

Southern Burlington County NAACP v Township of Mount Laurel (NJ 1983). Text at 467.

Text 487-488.

Bd. of Supervisors of Fairfax County v DeGroff Enterprises, Inc. (VA 1973). Text at 488.

Text 492-493.

Village of Arlington Heights v Metropolitan Housing Development Corp. (US 1978). Text at 493.

i. Flexible Zoning Techniques

Giger v City of Omaha (NE 1989). Text at 137. Contract and conditional zoning.

Text 76-77.

Fasano v. Bd. of County Commissioners of Washington County (OR 1973). Text at 77. Floating zone.

Text 149-156.

Frankland v City of Lake Oswego (OR 1973). Text at 156.

j. Initiative and Referendum

Text 412-413.

City of Eastlake v Forest City Enterprises (US 1976). Text at 413.

Text 430-432..

3. Development Controls

Text 168-181.

Youngblood v Board of Supervisors of San Diego County (CA 1978). Text at 181.

Text 186-187

Brous v Smith (NY 1952). Text at 187.

Text 194-198.

Palm Beach County v Wright (FL 1994). Text at 198.

Text 206-208 & reexamine Nollan (Text at 208) and Dolan (Text at 220).

Text 231-232.

St. John's County v N.E. Florida Builders Ass'n, Inc. Text at 232.

Text 246-248.

4. Growth Management

Text 595-604..

Woodbury Place Partners v City of Woodbury (Minn App 1992). Text at 604.

Text 613-616.

Golden v Planning Board of the Town of Ramapo (NY 1972). Text at 616.

Text at 630-633.

Long Beach Equities, Inc. v County of Ventura (CA App 1991). Text at 633.

Text 637-643.

Construction Industry Ass'n of Sonoma County v City of Petaluma. Text at 644.

Text 653-658.

Thompson v Hancock County (IA 1995). Text at 658.

Borel v Contra Costa County (CA App 1990). Text at 665.

Text 671-674.

5. Aesthetics and Preservation

Text 433.

A-S-P Associates v City of Raleigh (NC 1979). Text at 434.

Text 446-451.

Text 451-453.

Reid v. Architectural Bd of Review of City of Cleveland Heights (OH App 1963). Text at 453.

Text 461-463..