

USC Price

Sol Price School of Public Policy

RED 351: Land Use Regulation

Units: 4

Spring, Wednesdays from 6:00 p.m. to 9:00 p.m.

Location: WPH 102

Instructor: Nicole Kuklok-Waldman

Office: Off campus

Office Hours: By appointment. Please feel free to call or text!

Contact Info: nkuklok@gmail.com, 818-468-1983

Course Description

This course will (1) introduce students to local and state legal concepts that are relevant in real estate law and (2) familiarize students with terminology, concepts and procedures. Although the primary focus will be land use and entitlement, the course will also cover other areas of law and policy relevant to urban planning, including real estate law, Constitutional law, environmental law, contract law, and administrative law. Because law is location-specific, and because laws are changing all the time, the course will focus on training students in general concepts and skills rather than specific laws. Nonetheless, the course's geographic focus will be primarily the United States and California.

Learning Objectives

1. To provide a working knowledge of key legal concepts relevant for future real estate developers.
2. To familiarize students with the players and processes that shape laws.
3. For students to learn to "issue spot" legal issues and to apply known legal concepts to predict potential outcomes.
4. For students to problem solve in cases with multiple competing interests and to consider and weigh those competing interests.
5. For students to think critically about current issues in the law as they relate to urban planning and real estate development.

Course Notes

The course will use Blackboard and PowerPoint slides and other materials will be posted online. Students are also required to submit a reading question each week that will be reviewed at the following class.

Required Readings and Supplementary Materials

Primary Book:

- Barclay and Gray, Curtin's Land Use and Planning Law, 2014 (available digitally) ("Barclay and Gray")

This text is available in print and electronically.

Cases:

- *Village of Euclid v. Ambler Realty* (USSC)
- *Nollan v. California Coastal Commission* (USSC)
- *Dolan v. City of Tigard* (USSC)
- *Kelo v. City of New London* (USSC)
- *Penn Central Transportation Company v. New York City* (USSC)

All cases will be available for download on BlackBoard.

Reading Questions: Each week, students are to submit one question from the readings with a citation to the readings via Google Documents link posted on BlackBoard.

Planning Commission Assignment: Students will be responsible for submitting a two-page evaluation of a Planning Commission meeting as assigned in the syllabus.

Homework Assignments: These assignments will be distributed at the class prior to when they are due and will also be posted on BlackBoard. Students not in attendance will be required to obtain the assignment on their own to complete and submit when due. Assignments are due at the beginning of the class following the class at which they were assigned and will be accepted in paper or electronically, at the student's preference.

Homework assignments will be graded on thoughtful attention to policy questions and detail, response to the actual questions asked and each component of the question asked, if a multiple-part question, and explanation of how conclusions were drawn. While points cannot be gained or lost on presentation, it is a good professional and future exercise to consider the appearance of your finished work, including use of headings, legible fonts, and professionally and neatly-printed materials.

Grading Breakdown

Assignment	Points	% of Grade
Attendance	10	10
Reading Questions	10	10
Planning Commission Assignment	10	10
Municipal Code Research Assignment	10	10
Case Brief Assignment	10	10
Affordable Housing Policy Assignment	10	10
Ballot-Box Election Assignment	10	10
Final Exam	30	30
Total	100	100

Grading Scale

Course final grades will be determined using the following scale:

A	95-100
A-	90-94
B+	87-89
B	83-86
B-	80-82
C+	77-79
C	73-76
C-	70-72
D+	67-69
D	63-66
D-	60-62
F	59 and below

Assignment Submission Policy

Printed assignments should be submitted at the beginning of the class at which they are due. Submittal by email prior to the beginning of the class at which they are due is also acceptable.

Grading Timeline

Assignments are typically graded and returned the following class. Appeals of grades will be accepted by the Professor only if accompanied by a coherent argument as to why the grading should have differed. Argue your case!

Additional Policies

Students are expected to attend all classes and participate as requested and expected. If a class is to be missed, please notify the Professor as soon as possible and obtain notes from a classmate to ensure you are up to speed with class material. Late assignments will be accepted with a 10% penalty. Please pay attention in class and minimize use of phones as possible. It's just courteous.

Course Schedule: A Weekly Breakdown

- Class 1**
January 10 **Introduction to Course and Instructor**
Why is land regulated?
How did we get to the current legal context for land regulation, including a historical overview. Discussion of what the US was like prior to zoning and the movement toward zoning.
Class Activity: Small group policy problem solving; identifying winners and losers in land use policy challenges.
BREAK
Property Law 101: The bundle of sticks
Different kinds of property rights and basic land rights, including ownership, covenants, leases, the right to exclude, and other components of property law.
Class Activity: What are the sticks? Discussion of property concepts as the classic bundle of sticks.
Reading Assignment: Barclay and Gray, pp. 1-9, 487-502.
- Class 2**
January 17 **Guest Speaker!** Sarah Gorman is the City Clerk for the City of Santa Barbara, and before that, she was the City Clerk for Santa Monica and Santa Clarita. She is going to tell you all about how Cities work and operate, deal with the public, and hold compliant events and meetings.
- Class 3**
January 24 **Government Structures**
US Government structure including separation of powers, state legislatures, and local government structures, and why these are important to the regulation of property and property rights.
BREAK
Players in the Planning Process
Roles of Elected Officials, Judges and Courts, Administrators, and the Public in the Planning Process.
- Class 4**
January 31 **Outreach and Public Input**
How the public participates in the Planning Process.
Class Activity: Angry Neighbor Exercise. Try to please the angry neighbor by modifying your development proposal and find out how you can never make anyone happy! (I'm only half kidding). We will discuss some project examples and changes that can be made to try and accommodate community concerns and the impacts of those changes.
BREAK
Municipal Codes
Review of how to research and review code requirements by hand and using GIS systems.
Assignment: Municipal Code research worksheet
Reading Assignment: Barclay and Gray, pp. 9-19, 29-32, 37-39.

- Class 5**
February 7 **Case Law and Common Law**
Review of how to read a case, legislative documents, and administrative documents leading to code changes; review of what is really “the law.” Review of administrative law as compared to statutory law and why this is significant. Review of common law overall. Assignment: Read *Penn Central* and prepare a one-page case brief of *Penn Central*; submit the brief as your reading question this week.
BREAK
Comprehensive Planning
The approach, General Plans, developing General Plans and Master Plans, and plan consistency.
Reading Assignment: Barclay and Gray, pp. 43-51.
- Class 6**
February 14 **Zoning**
What zoning is and how it works, and the myth of spot zoning.
BREAK
Flexibility Devices
Variances, Conditional Use Permits, Plan Approvals, Modifications.
- Class 7**
February 21 **Additional Planning Tools and Restrictions**
Specific Plans, TODs, Plan Approvals, Overlay Zones, Interim Control Ordinances, Transfer of Floor Area Ratio (TFAR) and other ways to restrict property development in addition to zoning and standard flexibility devices.
- Class 8**
February 28 **Historic Preservation Law**
How the federal, state, and local governments protect historic properties consistent with US Constitutional Law. Review of *Penn Central*.
BREAK
Legislative and Political Strategies
Community Benefit Agreements, Redevelopment Agency law, and legislative efforts to modify land use.
- Class 9**
March 7 **Ballot Box Strategies**
Planning by ballot box, including case studies and common pitfalls
Assignment: Create a strategy to get a project approved through the election process (with prompt)
BREAK
Mid-term Review
Review of course so far; question and answer opportunity.
- March 14**
Class 10 **SPRING BREAK**
Field Trip! Attend the Santa Monica Planning Commission Meeting.
March 21 Assignment: Draft a two-page report on your observations of the process.
- Class 11**
March 28 **Guest Speakers!** Kate Hennigan and Tracey Chavira are City and County Lobbyists who are going to give you the insider talk on how things get done inside government! Get a perspective other than your Professor’s!
Reading Assignment: Barclay and Gray, pp. 423-429.
- Class 12**
April 4 **Improving Zoning**
Challenges in current zoning schemes, changing and updating zoning, ballot box zoning, and other structural challenges
BREAK
Affordable Housing
Current state of the law, affordable housing standards, and inclusionary zoning. Supply and demand in housing shortages.
Assignment: Draft a proposal, consistent with your learnings in the course thus far, that would address the affordable housing crisis. Include discussion of your considerations of winners and losers and how your proposal considers various stakeholders.
Reading Assignment: Read *Nollan, Dolan, and Kelo* (abridged); Barclay and Gray, pp. 73-78.

- Class 13**
April 11 **Basis of Legal Authority and Takings**
Where the right to control land derives and how it is implemented, review of the Police Power. Constitutional challenges in entitlement of property and limits on entitlements. Define eminent domain. Additional review of the Police Power, *Penn Central*.
BREAK
Subdivision Maps
What is subdivision, how it differs from entitlement, and why it is important.
Reading Assignment: Review Barclay and Gray, pp. 152-153.
- Class 14**
April 18 **Environmental Regulation**
California Environmental Quality Act (CEQA) and National Environmental Protection Act (NEPA), and how these laws affect entitlement of property. Environmental considerations and litigation. How CEQA has changed the landscape through litigation.
Reading Assignment: Barclay and Gray, pp. 511-524.
- Class 15**
April 25 **Challenging Land Use Decisions**
Legal recourse, including the doctrine of exhaustion of remedies.
Case Studies and Problem Solving
Review of tools and strategies to solve hypothetical problems.
BREAK
End of Term Review and Questions and Answers prior to Final Exam
- FINAL EXAM IS ON MAY 2 from 7-9 p.m.**

Statement on Academic Conduct and Support Systems

Academic Conduct:

Plagiarism – presenting someone else’s ideas as your own, either verbatim or recast in your own words – is a serious academic offense with serious consequences. Please familiarize yourself with the discussion of plagiarism in *SCampus* in Part B, Section 11, “Behavior Violating University Standards” <https://policy.usc.edu/scampus-part-b/>. Other forms of academic dishonesty are equally unacceptable. See additional information in *SCampus* and university policies on scientific misconduct, <http://policy.usc.edu/scientific-misconduct>.

Academic Accommodations:

Any student requesting academic accommodations based on a disability is required to register with Disability Services and Programs (DSP) each semester. A letter of verification for approved accommodations can be obtained from DSP. Please be sure the letter is delivered to the instructor (or to a TA) as early in the semester as possible. DSP is located in STU 301 and is open 8.30 AM to 5.00 pm Monday through Friday. Website and contact information for DSP:

http://sait.usc.edu/academicsupport/centerprograms/dsp/home_index.html
(213) 740-0776 (Phone), (213) 740-6948 (TDD only), (213) 740-8216 (FAX), ability@usc.edu

Support Systems:

Student Counseling Services (SCS) - (213) 740-7711 – 24/7 on call

Free and confidential mental health treatment for students, including short-term psychotherapy, group counseling, stress fitness workshops, and crisis intervention. <https://engemannshc.usc.edu/counseling/>

National Suicide Prevention Lifeline - 1-800-273-8255

Provides free and confidential emotional support to people in suicidal crisis or emotional distress 24 hours a day, 7 days a week. <http://www.suicidepreventionlifeline.org>

Relationship and Sexual Violence Prevention Services (RSVP) - (213) 740-4900 - 24/7 on call

Free and confidential therapy services, workshops, and training for situations related to gender-based harm. <https://engemannshc.usc.edu/rsvp/>

Sexual Assault Resource Center

For more information about how to get help or help a survivor, rights, reporting options, and additional resources, visit the website: <http://sarc.usc.edu/>

Office of Equity and Diversity (OED)/Title IX Compliance – (213) 740-5086

Works with faculty, staff, visitors, applicants, and students around issues of protected class. <https://equity.usc.edu/>

Bias Assessment Response and Support

Incidents of bias, hate crimes and microaggressions need to be reported allowing for appropriate investigation and response. <https://studentaffairs.usc.edu/bias-assessment-response-support/>

The Office of Disability Services and Programs

Provides certification for students with disabilities and helps arrange relevant accommodations. <http://dsp.usc.edu>

Student Support and Advocacy – (213) 821-4710

Assists students and families in resolving complex issues adversely affecting their success as a student EX: personal, financial, and academic. <https://studentaffairs.usc.edu/ssa/>

Diversity at USC

Information on events, programs and training, the Diversity Task Force (including representatives for each school), chronology, participation, and various resources for students. <https://diversity.usc.edu/>

USC Emergency Information

Provides safety and other updates, including ways in which instruction will be continued if an officially declared emergency makes travel to campus infeasible, <http://emergency.usc.edu>

USC Department of Public Safety – 213-740-4321 (UPC) and 323-442-1000 (HSC) for 24-hour emergency assistance or to report a crime.

Provides overall safety to USC community. <http://dps.usc.edu>