

LAND USE SYLLABUS

Spring, 2010

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Room 67A

Office hours: TBA and by appointment

Readings for this course appear, for the most part, in Callies, Freilich, Roberts, **Cases and Materials on Land Use**, 5th edition. You can access the Cambridge Zoning Ordinance at the City of Cambridge Department of Communities and Development website (www.cambridgema.gov/CDD/cp/zng/zord). There are additional cases assigned for this course that can be read on-line. Citations are provided on this syllabus.

PLEASE NOTE: YOU ARE EXPECTED TO READ THE CASES AS WELL AS THE NOTES, COMMENTS AND OTHER MATERIALS ON THE PAGES INDICATED ON THE SYLLABUS.

1. AN INTRODUCTION TO THE UNDERLYING CONSTITUTIONAL ISSUES: PROPERTY RIGHTS AND THE POLICE POWER, PLANNING, REGULATIONS AND TAKINGS

Class 1, March 1

Casebook, pp.1-18, 286-289, 320-324

Bove v. Donner Hanna Coke Corporation

Hadacheck v. Sebastian

Pennsylvania Coal Co. v. Mahon, Brandeis Dissent, 260 U.S. 293, 43 S.Ct. 158

2. THE ZONING CLASSICS

Classes 2 and 3, March 3 and 8

Casebook, pp.19-45

Village of Euclid v. Ambler Realty

Nectow v. City of Cambridge

Udell v. Haas.

3. ZONING BASICS: ENABLING AUTHORITY, PARAMETERS

Classes 4 and 5, March 10 and 15

Casebook, pp. 45- 93

Pierro v. Baxendale

Hernandez v. City of Hanford

Graff v. Zoning Board of Appeals of the Town of Killingworth

Rumson Estates, Inc. v. Mayor and Council

Nat'l Amusements Inc. v. City of Boston, 29 Mass. App.Ct. 305, 560 N.E. 2d 138(1990)

You can access the Cambridge Zoning Ordinance on line at www.cambridgema.gov/CDD/cp/zng/zord. Take a careful look at it or some other ordinance.

4. "FLEXIBILITY" AND DISCRETION, ISSUES AND DEVICES

Classes 6 and 7, March 17 and 22

Casebook, pp. 93-130

Bartram v. Zoning Commission of the City of Bridgeport

Fasano v. Board of Cty. Commissioners of Washington County
Gorham v. Town of Cape Elizabeth
McLean Hospital Corporation v. Town of Belmont, 56 Mass.App.Ct. 540, 778 N.E. 2d 1016(2002)
Durand v. IDC Bellingham

5. VARIANCES AND NONCONFORMITIES

Class 8, March 24

Casebook, pp.130-147
Topanga Association v. County of Los Angeles
City of Los Angeles v. Gage
Tsagronis v. Bd. of Appeals of Wareham, 415 Mass.329, 613 N.E. 2d 893(1993)

6. REGULATING AESTHETICS: BILLBOARDS, HISTORIC PRESERVATION, ZONING VICE

Class 9, March 29

Casebook pp 496-515
ASP Associates v. City of Raleigh

Casebook, pp. 515-528
Reid v. Architectural Board of Review

Casebook, pp. 411-434
City of Renton v. Playtime Theaters
City of Ladue v. Gilleo

7. RELIGION, EDUCATION AND LAND USE CONTROLS

Class 10, March 31

Casebook. Pp.434-457
Civil Liberties for Urban Believers v. City of Chicago
Martin v. Corp. of Presiding Bishop of the Church of Latter Day Saints, 434 Mass. 141, 747 N.E. 2d 131(2001)

Trustees of Tufts College v. Medford, 415 Mass.753, 616 N.E. 2d 433 (1993)
Trustees of Boston College v. Board of Aldermen of Newton, 50 Mass. App. Ct. 794, 793 N.E. 2d 387 (2003)

8. THE PLAN AS LAW AND BALLOT BOX ZONING

Class 11, April 5

Casebook pp. 458-495
Board of Cty. Commissioner of Brevard Cty. v. Snyder
City of Eastlake v. Forest City Enterprises
City of Cuyahoga Falls v. Buckeye Community Hope Foundation
Kaiser Hawaii Kai Development Co. v. City of Honolulu

9. SUBDIVISION CONTROL

Classes 12 and 13, April 7 and 12

Casebook, pp.199-280, 364-373
Gardner v. Cty. of Sonoma
Youngblood v. Bd. Of Supervisors of San Diego Cty.
Palm Beach Cty. v. Wright
Nollan v. California Coastal Commission
Dolan v. City of Tigard

Chevron v. Lingle
Valusa Cty. v. Aberdeen at Ormond Beach

10. VESTED RIGHTS AND PUD

Class 14, April 14

Casebook, pp. 147-168, 182-198
Avco Community Developers, Inc. v. South Coast Regional Comm.
County of Kauai v. Pacific Standard Life Insurance Company
Evans v. Teton County
Freeman v. Planning Board of West Boylston, 419 Mass. 548, 646 N.E. 2d 139, 646 N.E. 2d 139(1995)

11. TAKINGS, REGULATIONS AND REMEDIES

Classes 15 and 16, April 21 and 26

Casebook, pp. 287-306, 306-320, 320-324, 341-373, 324-340, 388-401
Kelo v. City of New London, 125 S.Ct. 2655 (2005)
Loretto v. Teleprompter Manhattan
Pennsylvania Coal Co. v. Mahon and *the Brandeis Dissent*

Penn Central v. City of New York
Lingle v. Chevron

Lucas v. South Carolina Coastal Comm. *Read the full text opinion*

Daddario v. Cape Cod Commission, 425 Mass. 411, 681 N.E. 2d 833 (1997)
Giovannella v. Conservation Commission of Ashland, 447 Mass. 720, 857 N.E. 2d 451 (2006)

Marks v. City of Chesapeake
Village of Willowbrook v. Olech

12. EXCLUSIONARY ZONING

Classes 17 and 18, April 28 and May 3

Casebook, pp. 565-584, 588-594
Village of Arlington Hts. V. Metropolitan Housing Dev. Corp.
City of Cuyahoga Falls v. Buckeye Community Hope Foundation
Buckeye Community Hope Foundation v. City of Cuyahoga Falls
City of Cleburne v. Cleburne Living Center

Casebook, pp. 534-565
Southern Burlington Cty. NAACP v. Mt. Laurel
Home Builders Ass. Of Northern Calif. v. City of Napa

13. GROWTH MANAGEMENT

Classes 19, May 5

Casebook pp. 683-747
Golden v. Planning Board of Ramapo
Construction Industry Ass. V. City of Petaluma
Johnson v. Town of Edgartown, 425 Mass. 117, 680 N.E. 2d 37 (1997)
Zuckerman v. Hadley, 813 N.E. 2d 843 (Mass. 2004)