

Professor M. Allan Hyman  
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## **REAL ESTATE TRANSACTIONS SYLLABUS**

### **Purpose of the Course:**

This course will emphasize a practical approach to representing parties to real estate transactions. It will focus on real estate brokers, contracts of sale, financing transactions, title insurance, and title closings including both commercial and residential real property.

### **Course Materials:**

We will be using the text, "A Practical Guide to Commercial Real Estate Transactions" and selected cases which will be assigned at each class session.

**Classes:** This class is scheduled to meet 3 hours per week on Tuesdays from 4:10 p.m. to 7:00 p.m.

**Attendance:** Students are expected to attend classes regularly. If you miss classes frequently or are unprepared several times, your grade may be lowered. If you know that you will be missing class for a compelling reason, please e-mail me with a brief explanation.

### **Final Grade for the Course:**

The final grade will be based upon class participation (15%) and the final exam (85%).

**Final Exam:** The final exam may consist of short answers, multiple choice questions or a combination thereof. More information will be provided later in the semester.

**Computer Policy:** Computers may not be used for taking notes in class. This course does not lend itself to computer note taking, which is distracting and prevents students from being fully engaged in the materials being presented.

**Communication:** The best way to communicate with me is by my office e-mail, [ahyman@certilmanbalin.com](mailto:ahyman@certilmanbalin.com). I will get back to you within 24 hours. If you need to speak with me in person, we can set up an appointment in my office at 90 Merrick Avenue, East Meadow, about 15 minutes from the law school.

## COURSE OUTLINE

1. Role of Real Estate Brokers in Real Estate Transactions
  - a) Multiple Listing Service
  - b) Listing Brokers
  - c) Cooperating Brokers
  - d) Agreements for splitting commissions
  - e) Exclusive right to sell – Broker paid commission if property sells to anyone during period of listing agreement
  - f) Exclusive Agency – Broker is not paid if Seller sells property independently
  - g) Open listing- Broker is paid only if he or she makes a sale
  - h) Broker is agent of seller- See *Daubman v. CBS Real Estate Co.* 580 N.W. 2d 552, (Neb. 1958) Broker is agent of Seller
  - i) Withdrawal Clauses- See *Blank v. Borden*, 524 P.2d 127
  - j) Broker’s duty to buyer. See New York Real Property Law, Sec. 443
  
2. Roll of Attorneys in Real Estate Transactions
  - a) Conflicts of Interest
  - b) Ethical Standards
  - c) Current Clients
  - d) Former Clients , See *Matter of Dolan*, 76 N.J. 1, 384 A.2d 1076 (N.J. 1978)
  
3. Introduction to Real Estate Transactions
  - a) Mechanics of real estate transactions
  - b) Allocation of Risk
  - c) Information Gathering
  
4. Contract of Sale
  - a) Buyer’s point of view
  - b) Seller’s point of view
  - c) Statute of frauds
  - d) Parties to contract
  - e) Purchase price
    - i) Existing financing
    - ii) Assumption of risk
    - iii) Subject to existing debt
    - iv) Seller financing part of sales price
    - v) Deposit on contract
  - f) Sale of personal property
    - i) Sales tax considerations
    - ii) Allocation of sales price
  - g) Contract of Sale, Seller’s representations
  - h) Options to purchase
  - i) Conditions of property
  - j) Maintenance of property pending closing
  - k) State of seller’s title

- l) Tenant's leases
  - m) Access to property
  - n) Certificate of occupancy
  - o) Zoning issues
  - p) Environmental considerations
  - q) Insurance
  - r) Condemnation
  - s) Real property taxes
  - t) Buyer's representations and warranties
  - u) Defaults and remedies
  - v) Transfer taxes
  - w) Recording of contract of sale
  - x) Time is of the essence clause
  - y) Assignment of contract
5. Post closing due diligence
- a) Remedies for problems disclosed
  - b) Title and survey issues
  - c) Real property taxes and assessments
  - d) Easements
  - e) Existing mortgages and payment
  - f) Title insurance policy
  - g) Access to property
  - h) Zoning
  - i) Tenants' leases
    - i) Renewal options
    - ii) Duration
    - iii) Termination
    - iv) Security Deposit
    - v) Leasehold financing
    - vi) Tenants' estoppels
    - vii) Subordination and non disturbance agreements
  - j) Corporations, Partnerships, and Limited Liability issues
6. Loan transactions
- a) Loan commitments
  - b) Loan documents
  - c) loan clauses
7. Title closing
- a) Document preparations
    - i) Deed
    - ii) Corporate, partnership, and limited liability entities
    - iii) Bill of sale
    - iv) Payoff letters
    - v) Calculating closing adjustments

- b) Running the closing
8. Post closing matters
- a) Recording documents
  - b) Distribution of Documents