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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.

### **Learning Outcomes for the Course:**

This course is expected to enhance a student's ability to:

- 1) Write analytically and persuasively
- 2) Draft legal documents such as contracts, client communications, opinion letters and the like
- 3) Extract rules and policy from cases, statutes, and administrative regulations and analyze, interpret and argue differing interpretations of rules and statutes
- 4) Identify legal issues in facts and apply rules and policy to facts
- 5) Analyze and structure transactions
- 6) Present analysis orally and argue orally
- 7) Use policy to analyze and persuade
- 8) Solve problems in light of a client's objectives: anticipate consequences and risks
- 9) Recognize the most common ethical and professional liability dilemmas and resolve them with high professional standards
- 10) Negotiate in transactional contexts
- 11) Counsel clients
- 12) Interview clients
- 13) Apply the principles and policies reflected in the law governing lawyers, including a lawyer's duty of loyalty to clients, fiduciary duties, and obligations of zealous representation

### **Course Materials:**

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

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

Attendance: Students are expected to attend classes regularly. The rules of the New York State Court of Appeals, the American Bar Association, and the Law School all require law students to be in good and regular attendance in the courses for which they are registered. To comply with these rules, you must attend at least 85% of your regularly scheduled classes. A student enrolled in a three-credit course may thus miss no more than two class sessions.

I will provide sign-in sheets for each regularly scheduled class, which shall be the dispositive evidence regarding your absence from a given class. Each student is responsible for signing in. Falsification of sign-in sheets is a violation of the Code of Academic Conduct.

If you exceed the permitted absences by failing to sign in, you will be administratively withdrawn from the course. No prior notice may be given, and you will receive notification from the Office of Academic Records indicating the withdrawal. Any such withdrawal may have serious ramifications for your financial aid, academic standing, and date of graduation. If you are excessively absent from several classes, you may face additional sanctions, including but not limited to denial of certification of good and regular attendance to the New York State Board of Law Examiners, or other state bar examiners.

If you believe you must be absent from class for more than the permitted number of classes, you should contact the Office of Student Affairs as soon as possible. Accommodations will be made for students who must be absent for religious reasons and in cases of truly compelling hardship. Any request for an exception made to the Office of Student Affairs must be accompanied with appropriate documentation.

Lateness: Students are expected to be on time to class. However, it is better to come to class late than not at all. You may walk in late if you have a good reason, as long as you don't abuse this privilege.

Expected Student Workload: The American Bar Association requires that you spend at least six hours per week, on average, outside of class studying for this 3 credit course. This is in addition to the three hours a week we spend in class.

Final Grade for the Course:

The final grade will be based upon the final exam.

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 be used for taking notes in class, but for no other purpose.

Communication: The best way to communicate with me is by e-mail to my office e-mail address, [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 to meet in my office at 90 Merrick Avenue, East Meadow, located 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