UP 513 – LEGAL ASPECTS OF THE PLANNING PROCESS
Fall 2003

Professor: Richard K. Norton
1248C A&AB
936-0197 / rknorton@umich.edu

Graduate Student Instructor: Jessica Eaton, jeaton@umich.edu

Meeting Times:

Tuesday and Thursday: 3:00 – 4:30, 1221 A&AB
Selected Thursdays (Discussion): 4:00 – 5:00, 1221 A&AB

This course provides a general overview of the legal aspects of urban and regional planning, including institutional structures, sources of and limits on legal authority, the relationships between planning as a process and legal controls, and traditional and evolving approaches to land use control. In addition, for students taking the course for 3 credit hours, special topics will be addressed in more depth. The principle focus of this course will be on the relationships between planning as a public policymaking process and the laws that both authorize and are used to implement planning initiatives. The requirements for the course are as follows:

**Students taking the course for 2 and 3 credit hours:**
- Attend the course for the first 10 weeks of the term (3 hours / week)
- Several short graded assignments (discussion questions, legal research, case briefs)
- 48 hour take-home exam due at the end of week 10

**Students taking the course for 3 credit hours:**
- Attend the course for the final 5 weeks of the term (3 hours / week)
- Several short graded assignments (discussion questions, case briefs)
- Final paper due the last day of class (NOTE: subject to change)

**Required Readings:**

- Course reader (Available at the A&AB copy center)
**UP 513 – LEGAL ASPECTS OF THE PLANNING PROCESS**
Fall 2003

**Grade Distribution:**

For the 2-Hour Version:

- 2-Minute Quiz (15 sessions, 1 pt each): 15 points
- Legal research assignment: 10
- **Take-Home Final:** 75
- **Total:** 100

Case briefs (4 briefs) will be graded on a √-, √, √+ basis and used to adjust final grades accordingly.

For the 3rd Hour:

- Points from first 2/3rds of term: 100
- 2-Minute Quiz (10 sessions, 1 pt each): 10 points
- **Final Paper (subject to change):** 40
- **Total:** 150

Case briefs (2 briefs) will be graded in the same manner as the first section of the course.

**Break-Down by Percent for 3-Hour Version:**

- Quizzes: 25/150 = 16%
- Legal Research: 10/150 = 7%
- Take-Home Final: 75/150 = 50%
- Final Assignment(s): 40/150 = 27%
LEGAL ASPECTS OF THE PLANNING PROCESS
UP 513 – Fall 2003

NOTE: All readings other than those in Juergensmeyer and Roberts (J&R), Babcock, or online are in the reader.

Course Schedule: Part I

Week 1: Introduction and Basics

2 Sept. (T): Introduction / Course Overview / Historic Origins & Themes

4 Sept. (Th): American law and policy / federalism / intergovernmental relations

Reading: Kuklin & Stemple Chapters 3 and 4; J&R Chapter 1

Week 2: Sources, Limits, and Exercise of Government Power

9 Sept. (T): Federal constitution, commerce clause, pre-emption, state and local law, administrative law, statutes and regulations

Reading: J&R Chapter 2; US Constitution

Cases: Wickard v. Filburn
United States v. Lopez
Miller v. Fabius Twp.

11 Sept. (Th): (Continued)

Reading: Selected materials on the MI courts

Online: MI Constitution and selected MI statutes and regulations

Discussion (2nd Hour): Legal research

Week 3: Some Context

16 Sept. (T): Private Property

Reading: Siegan Chapter 1; Geisler and Daneker Chapters 1 and 4; Jacobs 1995

18 Sept. (Th): The Zoning Game

Reading: Babcock and Siemon Chapters 1, 4-7, 9, 13
LEGAL ASPECTS OF THE PLANNING PROCESS
UP 513 – Fall 2003

Week 4: Zoning

23 Sept. (T): Zoning: History, purposes, types
Reading: J&R Chapter 3, start Chapter 4
Cases: Clements v. McCabe
       Village of Euclid v. Ambler Realty Co.
       Nectow v. Cambridge

25 Sept. (Th): Zoning: Types and Uses
Reading: J&R Chapter 4

Assignment Due: Legal research assignment

Week 5: Zoning (continued)

30 Sept. (T): Zoning: Forms of Relief
Reading: J&R Chapter 5

2 Oct. (Th): Discussion: Recap and Review
Reading: Ann Arbor Zoning Ordinance

Week 6: Subdivision Control / Growth Management

7 Oct. (T): Subdivision control and building codes
Reading: J&R Chapter 7 (Skim Chapter 8)
Cases: Pioneer Trust v. Village of Mount Prospect
        Gulest Associates v. Town of Newburg
        Jenad v. Village of Scarsdale
        Jordan v. Village of Menomonee Falls

9 Oct. (Th): Growth management
Reading: J&R Chapter 9
Cases: Golden v. Planning Board of Ramapo
       Construction Industry v. Petaluma
Week 7: BREAK / Briefing Cases

14 Oct. (T): FALL BREAK

16 Oct. (Th): **Discussion:** Briefing Cases (1 hour)

Reading: Start reading J&R Chapter 10 (Sections 10.1 through 10.11) for Week 8

Cases: Review *Euclid* and *Nectow*
- *Lochner v. New York*
- *Mugler v. Kansas*
- *Pennsylvania Coal Co. v. Mahon*
- *Agins v. City of Tiburon*
- *Loretta v. Teleprompter Manhattan CATV Corp.*
- *Nollan v. California Coastal Commission*
- *Dolan v. City of Tigard*
- *Lucas v. South Carolina Coastal Council*
- *Palazzolo v. Rhode Island*
- *Penn Central Transportation Co. v. New York City*
- *First English Evangelical Lutheran Church v. County of Los Angeles*
- *City of Monterey v. Del Monte Dunes*
- *Tahoe-Sierra Preservation Council v. Tahoe Regional Planning Agency*

Week 8: Recap and Constitutional and Statutory Limits on Local Land Use Authority

21 Oct. (T): **Discussion:** Briefing Cases / Recap and open discussion (1 hour)

23 Oct (Th): Regulatory Takings (2 hours)

2 Case Briefs Due

Week 9: Constitutional and Statutory Limits (continued)

28 Oct. (T): Due process, equal protection, first amendment, commerce clause

Reading: J&R Chapter 10 (Sections 10.12 through 10.23)

Cases: *Buchanan v. Warley*
- *Moore v. City of East Cleveland*
- *Fasano v. Washington County*
- *Shelley v. Kramer*
- *Arlington Heights v. MHDC*
- *City of Cleburne v. Cleburne Living Center*

1 Case Brief Due
LEGAL ASPECTS OF THE PLANNING PROCESS
UP 513 – Fall 2003

30 Oct. (Th): Exclusionary zoning
Reading: J&R Chapter 6

Week 10: Nuisance / Private Land Use Control / Eminent Domain / Professional Ethics

4 Nov. (T): Nuisance, private land use controls, eminent domain
Reading: J&R (1998 edition, in the reader) Chapters 14, 15, and 16
Cases: Boomer v. Atlantic Cement
Spurr Industries v. Webb Development
Berman v. Parker
Poletown Neighborhood Council v. City of Detroit
Hawaii Housing Authority v. Midkiff

1 Case Brief Due

6 Nov. (Th): Professional ethics: Keeping yourself and your commissioners out of trouble
and RECAP AND REVIEW
Reading: to be announced

Take home test assigned

TAKE HOME TEST: DUE SATURDAY 8 NOVEMBER BY 5 PM