REAL ESTATE FINANCE

SYLLABUS

The course is designed to introduce the student to the legal issues which arise in connection with the acquisition and financing of commercial real estate. We will examine real estate contracts (including the application of the Statute of Frauds and remedies available under real estate contracts), deeds, recording acts and title insurance.

We will also discuss the structure and scope of real estate mortgages, mortgage substitutes, mortgage priorities and remedies available to a lender after default, including acceleration of maturity, judicial and non-judicial foreclosure and receiverships. We will also consider the rights and defenses available to mortgagors after default.

This syllabus sets forth an outline of the materials which will be covered in class this semester. All page references are to the textbook, Nelson & Whitman, Real Estate, Finance, and Development (7th Edition, 2006). All other references are to supplemental materials which are available in electronic form and will be emailed to all students in the course.

I. CONTRACTS

A. Requirements and Conditions

1. Statute of Frauds: pp. 21-43
   Plantation Land Co. v. Bradshaw

2. Time for Performance: pp. 66-74

3. Conditions, Covenants and Representations: pp. 116-126
   Fourteen West Realty v. Screws
   Koedding v. Slaughter

4. Title Warranties: pp. 75-85

B. Remedies

1. Damages: pp. 43-53, 60-66
   Quigley v. Jones
   Southeastern Land Fund, Inc. v. Real Estate World, Inc.

2. Specific Performance: pp. 53-59
C. Summary of Commercial Contract

1. Letter of Intent
2. Raw Land Contract
3. Income Property Contract
4. Acquisition Checklist

II. TITLE

A. Deed Warranties

1. general warranty
2. limited warranty
3. quitclaim deed

B. Deed Covenants: pp. 187-199
   Northside Title & Abstract Co. v. Simmons
   Hillsboro Cove, Inc. v. Archibald

C. Recording Acts

1. Introduction: pp. 199-224
2. Chain of Title Problems: pp. 224-231
   Richardson v. Atlantic Coast Lumber Co.

D. Title Insurance

1. Title Insurance: The Basics
   Introduction: pp. 235-248
   Survey
   Legal Description

2. Title Commitment Outline
   ALTA Owner’s Title Commitment
   Title Insurance Policy Outline
   Owner’s Policy
   Loan Policy
3. Exclusions

4. Coverage
   Hocking v. Title Ins. & Trust Co.
   Anderson v. Title Insurance Co.

5. Affirmative Coverage and Endorsements

III. MORTGAGES

   Promissory Note
   Non-recourse provision
   Mortgage and Security Agreement
   Non-Judicial Power of Sale

B. Mortgage Substitutes: pp. 256-279
   Perimeter Development Corp. v. Haynes

C. Installment Land Contracts: pp. 279-312
   Installment Sales contract

D. Second Mortgages: pp. 106-110
   Old Stone Mountain and Realty Trust v. New Georgia Plumbing, Inc.
   Chivilis v. Tomlin Woods
   pp. 867-885

E. Leases and Rents: pp. 343-377
   Wright v. Home Beneficial Life Insurance Co.

F. Casualty and Condemnation: pp. 414-430

G. Transfers of Mortgaged Property and Mortgages
   1. Transfers by Mortgagor: pp. 436-450
   2. Due-on-Sale Clauses: pp. 457-472
   3. Transfers by Mortgagee: pp. 472-507

H. Prepayment: pp. 518-535
IV. FORECLOSURE

A. Introduction: pp. 560-565 and 569-578
Georgia Code Section 13-4-4

B. Receiverships: pp. 377-389

C. Effects of Foreclosure

1. Disbursement of Foreclosure Sale Proceeds: pp. 674-681

2. Mortgagor’s Equity of Redemption: pp. 682-686

3. Judicial Foreclosures

   (a) Effect On Other Secured Creditors Who Receive Notice: pp. 349-353, pp. 585-589

   (b) Rights of Other Interested Parties Who Do Not Receive Notice: pp. 592-609

4. Non-Judicial Foreclosures
Manoog v. Miele: pp. 612-635

5. Statutory Redemption: pp.686-703

6. Post-Foreclosure Liability for Deficiency: pp. 703-744
Bullington v. Mize

D. Special Issues

1. Purchase Money Mortgages: pp. 821-827


3. After Acquired Property: pp. 827-834

4. Open-end or Dragnet Clauses: pp. 979-986
Canal National Bank v. Becker