RE 310 – Real Estate and Environmental Law

Fall 2017

Instructor: Nicholas Ordway, J.D., Ph.D.

Office Hours: Wednesday and Friday 12:00 - 1:00 pm and by appointment

Office: B-204a, College of Business Administration (This is in Suite B-201)

Telephone: 956-7892 (Note telephone policy below)

E-Mail: olgierd@hawaii.edu

Classroom meetings and times and place: Classes will be held at 10:30-11:45 am Wednesday and Friday in Room E – 204.

Catalog Description: Property Rights, land tenure, agency, contracts and negotiation theory, title conveyancing and escrow, mortgage instruments, fair housing, state and federal environmental policy.

Prerequisites: None

Course Objectives:

1. To understand basic land tenure concepts.

2. To be aware of legal and sustainability issues unique to the Hawai’i aina.

3. To become aware of the history of real estate development and environmental/cultural issues, both in the United States and Hawaii.

4. To become familiar with the role of negotiation in affecting development.

5. To become familiar with sustainability concerns of various stakeholders.

6. To understand how public planning can contribute to private values.

7. To be aware of the global sustainability movement

8. To consider the ethics and cultural issues of land use development.
Textbooks:
Mike Miles et al., *Real Estate Development: Principles and Process*, 5th Ed., Urban Land Institute, 2015. (Hereinafter, Miles, Ch. ____).

David L. Callies, *Regulating Paradise: Land Use Controls in Hawai‘i*, University of Hawaii Press, 2010. (Hereinafter, Callies, Ch. ____)

**Grading:**
- Class participation: 10 points
- Test #1: 25 points
- Test #2: 25 points
- Short report describing the current condition & status of Waikiki: 10 points
- Team Waikiki Tourism/Environmental Assessment Report: 20 points
- Team Power Point Presentation: 10 points

Alternatively:
- Individual Report required: 30 points (no power point required)

You may create a team with other students to develop an outline environmental assessment of how to make Waikiki more economically viable as a tourism generator. You and your team need to identify synergy possibilities to make Waikiki land and facilities more “sustainable” and valuable.

This report is a substitute for a final exam. **Your team can consist of up to four members.** Last day of class you will turn in an evaluation of each member of your team. Note that teams can fire a freeloader member or a person who creates irreconcilable problems or for any reason you wish. Teams can also split into smaller teams or combine with others as long as no more than 4 people are on a team. **Personnel changes must be made by no later than October 20** and instructor must be advised in writing. On one of the next to the last two days of class, your team will make a 15-20 minute power point presentation of your findings. Presentation times will be drawn at random by the instructor.

**Note:** You may redefine the boundaries of Waikiki to include land on the other side of the Ala Wai canal.

Alternatively, you can act alone without a team. Individuals must turn in an individual report but will not be required to do a power point presentation.
Grade-Score Equivalents:

- A+ = 97 points +
- B+ = 87 points +
- C+ = 77 points +
- D = 60 points +
- A = 93 points +
- B = 83 points +
- C = 73 points +
- F = below 60 points
- A- = 90 points +
- B- = 80 points +
- C- = 70 points +

Class Policies:

1. You have a limited license to tape record lectures for your own personal use.
2. Generally any open time/date is available for appointments. Probably the best way to make appointments is by e-mail.
3. You are encouraged to use e-mail to ask questions. However, e-mail is not acceptable for turning in assignments.
4. Grades will NOT be provided by e-mail or telephone. However this information is always available to you if you personally come to my office.
5. I tend not to answer my phone calls until a sufficient number of messages have group up (Time management). If you make a phone call – make sure you leave a message.
6. You are encouraged to meet with the professor outside of class if you need additional help understanding the concepts. Let me know by e-mail if you plan to come in so that the outer door can be opened (if necessary).
7. All assignments must be typed.
8. Unexcused late paper will suffer a penalty. Any excuses must be documented.
9. Make-up tests are the exception and require a written justification for a student missing a scheduled test. If you are more than fifteen minutes late for a test, you may be required to take a make-up test at a later time or date.
10. Make-up tests cover the reading and lectures since the previous test and are likely to be much more challenging than the in-class test.
11. There are handouts in class. If you are not present when these handouts are given, you will need to make an appointment with the instructor to obtain the handout.
12. Academic Honesty: Because UHM is an academic community with high professional standards, its teaching, research, and service purposes are seriously disrupted and subverted by academic dishonesty. Such dishonesty includes cheating and plagiarism as defined below. Ignorance of these definitions will not provide an excuse for acts of academic dishonesty.

A. Cheating includes but is not limited to giving or receiving unauthorized assistance during an examination; obtaining unauthorized information about an examination before it is given;
submitting another's work as one's own; using prohibited sources of information during an
examination; fabricating or falsifying data in experiments and other research; altering the record
of any grade; altering answers after an examination has been submitted; falsifying any official
University record; or misrepresenting of facts in order to obtain exemptions from course
requirements.

B. Plagiarism includes but is not limited to submitting, in fulfillment of an academic
requirement, any work that has been copied in whole or in part from another individual's work
without attributing that borrowed portion to the individual; neglecting to identify as a quotation
another's idea and particular phrasing that was not assimilated into the student's language and
style or paraphrasing a passage so that the reader is misled as to the source; or submitting the
same written or oral or artistic material in more than one course without obtaining authorization
from the instructors involved.

13. **Service to Students with Disabilities:** If you are a student with a physical and/or mental
disability, you are encouraged to contact the Kokua Program (956-7511) on the ground floor of
the new Student Services Center.

**SCHEDULE**

Caveat: Minor changes may be made in the schedule as the semester progresses.

**August**

23 Wednesday – Introduction

25 Friday – The Real Estate Development Process – Miles, Ch. 1 and Real Estate Activity
Framework (attached to syllabus)

30 Wednesday - The Roles of the Regulatory Sector – Miles, Ch. 7.

**September**

1 Friday - Powers and Limitations on Government – no reading assignment.

6 Wednesday – Land policy agenda in the fiftieth state, Callies, Introduction (pp. 1-20).
Description of your Waikiki preliminary analysis report: Report describing the current condition
& status of Waikiki (DUE SEPTEMBER 27). Your assignment is to identify the problems
faced in Waikiki that make it less effective as a tourism engine. You may wish to compare the
experience in other cities that depend on tourism as a part of their economies. Do NOT worry
about solutions in THIS report. This report is a prelude to your bigger class project that does
deal with solutions.

8 Friday – Decision Makers and Stakeholders, Miles, Ch. 8; Assignment: Provide a typed list of
team members for each group.
13 Wednesday – History of Real Estate Development: The Colonial Period to the Late 1800’s; Miles, Ch. 4; History of Real Estate Development: The late 1800s to World War II, Miles, Ch. 5.

15 Friday – History of Real Estate development: Modern Era - Post-World War II to the Present, Miles, Ch. 6. The growing appreciation of the fragility of the human environment.

20 Wednesday – Stage One: Inception of an Idea, Miles, Ch. 9. The “Green Wheel of Business Sustainability.” Review for Test Number One.

22 Friday – Test Number One.

27 Wednesday – The Raw Material: Land and Demographics in the United States, Miles, Ch. 2.). Report describing the current condition & status of Waikiki due today.

29 Friday – Stage two: Refinement of the Idea, Miles, Chapter 12.

October

4 Wednesday – Ideas and Real Estate Synergy; Static and Dynamic Real Estate Synergy Principles. (No reading assignment)

6 Friday – Real Estate Finance: Background. Miles, Ch. 10.

11 Wednesday – Real Estate Finance: The Basic Tools, Miles, Ch. 11.

13 Friday – Stage Three: The Feasibility Study, Miles, Ch. 13.

18 Wednesday – Stages Four and Five: Contract Negotiations and Formal Commitment, Miles, Ch. 19.

20 Friday – State Land Use Controls, Callies, Ch. 1. Last day to change student teams.

25 Wednesday - Local Planning and Zoning, Callies, Ch. 2; Subdivisions, land development conditions, and development agreements, Callies, Ch. 3.

27 Friday– Public Lands in Hawaii: The Impact of State and Federal Ownership and Management, Callies, Ch. 4. Brief history on how Hawaii created its land use ownership pattern.
November

1  Wednesday - Redevelopment and the role of public corporations, Callies, Ch. 5.

3  Friday - Managing the coastal zone, Callies, Ch. 6 & Floodplains and FEMA, Callies, Ch. 7.

8 Wednesday – Historic preservation: Recapturing the past, Callies, Ch. 8 & Federalization of land use controls in Hawai‘i – Callies, Ch. 9 - 10 Friday - Non-Instruction day because of Veteran’s day

15 Wednesday – Stages six and seven: Construction, Completion and Formal Opening, Miles Ch. 15; Marketing, Sales and leasing, Miles, Ch. 16. Review for Test Number Two.

17 Friday - Test Number 2.

22 Wednesday – No formal class. Classroom will remain open for groups to meet and finalize their projects and presentations.

24 Friday – Non-Instruction day because of Thanksgiving break

29 Wednesday - Summary of the course; ALL REPORTS DUE.

December

1  Friday – Group presentations.

6  Wednesday – Group presentations.

11 Monday – 9:45-11:45 Make-Up Tests (Last chance if not taken earlier)
REAL ESTATE INVESTMENT DECISION STAGES

Stage One – ORGANIZATION:
- Investment Philosophy
- Business Objectives
- Entity Selection
- Internal Team
- External Human Support Group

Stage Two – INVESTMENT ENVIRONMENT
- General Economic Conditions
- Cycle Considerations
- Market Opportunities and Constraints
- Government and Political Issues
- Infrastructure Support
- Physical Environmental Conditions

Stage Three – SCREEN ALTERNATIVES
- Evaluation Criteria
- Establish Priorities and Tradeoffs
- Consider Sustainability Issues
- Target Markets
- Target Investor Partners
- Search Procedure

Stage Four – SELECT PROBABLE CHOICE
- Determine Type of Development
- Establish Pricing Range
- Find Sites Meeting Criteria
- Select Negotiation Strategy
- Do Preliminary Feasibility Analysis
- Analyze Financing Alternatives
- Negotiate Basic Contract Terms

Check for Consistency With Stage 3
Stage Five – DUE DILIGENCE
- Physical Inspection
- Phase I Environmental Assessment
- Examine All Leases and Contracts
- Analyze Public Sector Risks
- Validate Market Assumptions
- Identify Insurable Risks
- Determine Uncertainty Areas
- Anticipate Probable Litigation Risks
- Identify Value-Added Opportunities
- Apply Discounted Cash Flow Models
- & Ratios

Stage Six – STRUCTURE THE TRANSACTION
- Negotiate or Renegotiate Final Terms
- Negotiate Government Concessions
- Finalize Financing & Lender
- Covenants/Conditions
- Structure to Maximize Tax Benefits
- Risk Assessment and Acquire Appropriate Insurance
- Negotiate Asset Management Contract

Stage Seven – CLOSING AND ACQUISITION
- Finalize All Contracts
- Hire Property/Asset Management Team
- Closing and Punch List
- Resolve Conflicts
- Grand Opening/Brand Positioning
- Reinforcing Tenant Relations