REAL ESTATE TRANSACTIONS

SECOND EDITION

George Lefcoe

CONTEMPORARY
LEGAL EDUCATION SERIES

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SECOND EDITION

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MICHIE
Law Publishers
CHARLOTTESVILLE, VIRGINIA

Library of Congress Catalog Card No. 97-71588
ISBN 1-55834-502-7

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Dedication

To Leon Chiu

Preface

One professor complained there was too much in this book to cover in only one course. That's right. Like ordering a big meal in a Chinese restaurant, don't expect to eat it all at one sitting. That's what those little white cardboard boxes are for. Students can take away what they don't consume for later nourishment.

This book was designed for two consecutive courses. A first course in Real Estate Transactions would cover the first seven chapters, and chapters 8-10, depending on the instructor, the students, the number of units, and the other offerings available at the particular school. The last half of the book was for a course in Real Estate Development and Finance.

The book could be – and is – used by students wishing to learn the basics of real estate transactions on their own, or by real estate professionals as a guide to continuing education.

Although there is nothing transcendental in real estate transactions, the way real estate transactions are organized conveys deeper meaning to those who believe that the laws and arrangements for buying and selling property form an inseparable part of the concept of private property itself. As F.A. Hayek has written in *The Fatal Conceit: The Errors of Socialism* (1988):

> An important aspect of [individual] freedom – the freedom on the part of different groups or sub-groups to pursue distinct aims, guided by their differing knowledge and skills – was made possible not only by the separate control of various means of production, but also by another practice, virtually inseparable from the first: the recognition of approved methods of transferring this control.

Acknowledgments

When a property owner acknowledges his or her signature on a deed or deed of trust, she is indicating that the signature is hers. An author's acknowledgment is almost the opposite. He is acknowledging that he could scarcely have done the work alone. This acknowledgment is a recognition of the contribution others have made to the book – in this case, enormous contributions.

The first group of contributors were the authors of the "competing" casebooks. I have borrowed a lot from them.

At the top of the "thank you" list for this second edition are Dean Scott Bice at the University of Southern California Law School, our First Lady, Barbara Bice, and Dean Sam Thompson at the University of Miami School of Law. They have extended their wholehearted support and made every accommodation so this project could be completed on time.

Edward H. Rabin taught from the book at two law schools. He demonstrated his brilliance as a socratic teacher by gently leading me to re-work the finance chapters. Roger Bernhardt compelled me to take a critical look at the sequencing of the material, which led to substantial reordering. Taylor Mattis inspired me to think harder about recording acts and the nuances of mortgage law than I would ever have imagined possible for me. Patrick A. Randolph, Jr., through his cyberseminar, DIRT, has pointed me to valuable material.

Many other teachers using the first edition contributed useful suggestions and heartening support: Baxter Dunaway, Robert C. Ellickson, John Gelman, Dave Kobrin, Basil H. Mattingly, Eileen M. Roberts, Mary L. Savage, and David Splitt among them.

Thanks to the USC Law Library reference librarians, especially Brian M. Raphael, for skillful assistance.

Three students helped in the final stages of this project, editing faithfully to the end: R. Brian Bowling, Kathleen Grace McNamara and Roger H. Tefft.

Kadi Kurgpold hammered out draft after draft, a fountain of energy, patience and wisdom. Other authors will appreciate how comforting it is, when you have made your twentieth correction on the same page, to have an assistant who welcomes each change as if you were putting the finishing touches on the Mona Lisa, instead of regarding you as a hopeless bungler who couldn't get it right after nineteen tries. We have been together fifteen years now. Undertaking this project without her would have been unthinkable.

Finally, a word of appreciation to my sister, Judy Davidson, and my mother, Edyth Lefcoe, for their encouragement over the years.

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