SYLLABUS

Real Estate Drafting
Course #7570 – Fall 2011
Classroom 111
Tuesdays, 3:15 p.m. – 5:15 p.m.
(except as indicated below)

Adjunct Professor Shawn C. Ferrin
Parsons Behle & Latimer
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Salt Lake City, Utah 84111
Phone: (801) 532-1234
Facsimile: (801) 536-6111
Professor Ferrin’s e-mail address: SFerrin@ParsonsBehle.com
Kathleen Ruff’s e-mail address: KRuff@ParsonsBehle.com
(all projects must be submitted to Ms. Ruff, Professor Ferrin’s assistant, at her e-mail address)

1. Description of the Course

This course will review elements involved in drafting real estate documents, with significant opportunities to draft documents and obtain review and criticism on each draft. Each student will take on the role as outside real estate counsel to a fictitious client involved in various real estate development projects. The pertinent information with respect to the client and other fictitious parties involved are as follows (save this Syllabus because we will reference these parties in many of the documents which we will draft and review):

Our Client: The Daniels Group, LLC, a Utah limited liability company
Attention: Cedric Daniels, President and Chief Operating Officer
333 North Harbor Street, Suite 1500
Salt Lake City, Utah 84111
Phone: (801) 901-8000
Facsimile: (801) 901-8500
E-mail: CDaniels@DanielsDevelopment.com

Adverse Party: B&B Development, Inc., a Maryland corporation
Attention: Russell Bell, V.P. Development
10 West 600 North
Salt Lake City, Utah 84103
Phone: (801) 247-1875
Facsimile: (801) 247-1870
E-mail: RBell@B&BDevelopment.com
Our Law Firm:  Phelan Pearlman LLP  
Attention: Rhonda Pearlman  
One Salt Lake Center  
1 East South Temple, Suite 2000  
Salt Lake City, Utah  84101  
Phone: (801) 364-1000  
Facsimile: (801) 364-1500  
E-mail: PearlmanR@PhelanLaw.com  

Opposing Counsel:  Levy & Levy LLP  
Attention: Maurice Levy, Esq.  
50 East Broadway, Suite 1000  
Salt Lake City, Utah  84111  
(801) 942-2000  
Facsimile: (801) 942-2500  
E-mail: Maurice_Levy@LevyLaw.com  

The course will begin with discussing and drafting a standard engagement letter with our client, and will proceed with discussing, drafting, and reviewing standard representations, warranties, covenants, and conditions; term sheets and letters of intent; deeds; deeds of trust; easements and licenses; options and rights of first refusal; preclosing checklists; leases; purchase and sale agreements; declarations of covenants, conditions and restrictions; and closing instruction letters. We will discuss substantive issues underlying the preparation of the documents. I will review all of your written work and provide guidance regarding drafting styles and protocols.

I will provide you with required reading during the course, including a “Style Manual” which must be read during the first two weeks of the course. Materials will either be photocopied and provided to you, or provided to you by e-mail. On the first day of class students will be asked to provide me with their e-mail addresses to facilitate delivery of some documents, and to coordinate schedules.

2. Methodology  

Most of our in class time will be spent reviewing substantive matters regarding the preparation of real estate documents, with some lecture and questioning. Much of our class time will be involved in group discussions regarding drafting issues. Students can be expected to be called upon randomly in class and are encouraged to volunteer in participating in the discussion.

3. Requirements  

There is a reading assignment to be completed prior to the first class – please see the attached Schedule of Classes and Assignments. Some classes will have required reading assignments, but most of the out of class time will be spent drafting documents. Your name must appear at the upper right hand corner of the first page of each drafting assignment you submit. Students are expected to be prepared for each class and to meet, at a minimum, the Law School’s requirement of attendance at 80% of the scheduled classes. If you know in advance you will be unable to attend a class, I expect you to notify me beforehand by e-mail. I will be
available to meet with students on campus on Thursdays from 12:30 p.m. to 2:00 p.m. in the Adjunct Professor Office. I anticipate that each student will be required to spend approximately two hours of out of class time each week on projects, and approximately eight to 10 hours on the final project. All drafting assignments are due at 3:30 P.M. on the applicable due date. Drafting assignments should be submitted to my assistant, Kathleen Ruff, by e-mail.

4. Evaluation

Students will be evaluated on the basis of their in class performance and participation, quality and timeliness of drafting assignments, and on a final drafting assignment which will involve the preparation of a definitive real estate agreement. Some early drafting assignments during the term will be graded on a “plus,” “even” or “minus” basis, and the remainder of the projects, including the final project, will be graded on a traditional grading basis. Class participation and the drafting assignments throughout the semester will comprise two-thirds of the final grade. The final project will comprise the remaining one-third of the final grade. All drafting projects are expected to look like final documents, free from typographical, spelling and grammatical errors, and in a form which the student would be comfortable providing to the client.

5. ADA Disclosure

Pursuant to the Americans with Disabilities Act of 1990, the following information is provided to you:

The University of Utah seeks to provide equal access to its programs, services and activities for people with disabilities. If you will need accommodations in this class, reasonable prior notice needs to be given to Barbara Dickey, Associate Dean for Student Affairs, and to the Center for Disability Services (CDS) to make arrangements for accommodations. CDS is located at 200 S Central Campus Drive, Room 162, or you can call (801) 581-5050. All written information in this course can be made available in alternative format with prior notification.

6. References

I will from time to time direct you to reference materials to the extent they are necessary to help understand some of the substantive issues we are discussing in our drafting projects. At a minimum, those will include Powell on Real Property and Friedman on Leases.

7. Schedule of Classes and Assignments

I have attached a preliminary Schedule of Classes and Assignments for the semester. Any modifications to the Schedule will be communicated to all students.
SCHEDULE OF CLASSES AND ASSIGNMENTS

REAL ESTATE DRAFTING

ALL WRITTEN ASSIGNMENTS MUST BE SUBMITTED BY 3:30 P.M. BY E-MAIL TO KATHLEEN RUFF (KRUFF@PARSONSBEHLE.COM).

Assignment to be completed prior to first day of class, August 23, 2011:

Read the following sections from the Rules of Professional Conduct, Utah Supreme Court Rules on Professional Practice (located in Chapter 13): Preamble, Scope, Rule 1.2, and Rule 1.5.

Class 1:

August 23, 2011
- Discussion of course objectives
- Discussion of engagement letters
- Assignment: Draft Engagement Letter
- Assignment: Read “Style Manual” to be provided

August 26, 2011
- Engagement Letter is due

Class 2:

August 30, 2011
- Review comments to Engagement Letters
- Discussion of term sheets and letters of intent
- Assignment: Draft Term Sheet
- Assignment: Read glossary of architectural and construction terms to be provided

September 2, 2011
- Term Sheet is due

NO CLASS SEPTEMBER 6, 2011

Class 3:

September 13, 2011
- Review comments to Term Sheets
- Discussion of deeds
- Assignment: Draft Special Warranty Deed
- Assignment: Read Utah Code Ann. Sections 57-1-14-15, and 57-1-19 through 57-1-44
September 16, 2011
- Deed is due

Class 4:

September 20, 2011
- Review comments to Deeds
- Discussion of deeds of trust and mortgages
- Assignment: Read Deed of Trust form to be provided

Class 5:

September 27, 2011
- Discussion of Deed of Trust review
- Discussion of form and elements of an agreement
- Discussion of options and rights of first refusal
- Assignment: Draft Option Agreement

September 30, 2011
- Option Agreement is due

Class 6:

October 4, 2011
- Review comments to Option Agreements
- Discussion of contractual representations, warranties, covenants, and conditions
- Assignment: Read representations, warranties, covenants, and conditions to be provided

NO CLASS OCTOBER 11, 2011 – FALL BREAK

Class 7:

October 18, 2011
- Further discussion of representations, warranties, covenants, and conditions
- Discussion of easements, licenses and institutional controls
- Assignment: Draft Easement Agreement

October 21, 2011
- Easement Agreement is due
Class 8:

October 25, 2011
- Review comments to Easement Agreements
- Discussion of leasing
- Assignment: Draft Lease Abstract

October 28, 2011
- Lease Abstract is due

Class 9:

November 1, 2011
- Review comments to Lease Abstract
- Discussion of office, retail and industrial leases
- Assignment: Draft Lease Agreement

November 4, 2011
- Lease Agreement is due

Class 10:

November 8, 2011
- Review comments to Lease Agreements
- Discussion of real property covenants, conditions and restrictions
- Assignment: Edit restriction provisions
- Assignment: Read Declaration of Covenants, Conditions, and Restrictions to be provided

November 11, 2011
- Restriction provisions are due

Class 11:

November 15, 2011
- Review of comments to restriction provisions
- Discussion of boilerplate provisions
- Assignment: Redraft boilerplate provisions
- Assignment: Draft delivery e-mail

November 18, 2011
- Boilerplate provisions and delivery e-mails are due
Class 12:

November 22, 2011
- Review comments to boilerplate provision and delivery e-mail
- Discussion of indemnity and hold harmless provisions
- Discussion of Closing Checklists
- Assignment: Prepare Closing Checklist

November 28, 2011
- Closing Checklist is due
- Last day to select final project

Class 13:

November 29, 2011
- Review comments to Closing Checklist
- Discussion of closing instruction letters
- Gratuitous advice
- Review of assumptions for final project

Final Project
- The final project will involve the preparation of a commercial lease or purchase and sale agreement. The due date for this project will be determined when the schedules for finals are determined.