I begin with a weakness: I hate doing formalized self-evaluations or development plans. What follows, then, will be idiosyncratic—designed to help me rather than manufactured to suit any anticipated audience.

My strengths are in teaching and scholarship. In the former regard, I benefit from being a good, clear, and forceful speaker. In two years of teaching at the law school, my student evaluations have been quite good: my average rating for “Overall Teacher” was 7.7 out of 8 my first semester and 7.8 out of 8 in the second semester. I think I do a good job controlling the classroom and keeping the students engaged and, if necessary, entertained. I have a good eye for the humor in even dry legal cases, and the students appreciate that. I think I am strong in most of the things that students notice and evaluate. Where I am less strong is in sensing how well the students are actually doing—how fully they understand the material. I could also do better at varying my pedagogical approach to try to reach different kinds of learner. My approach is sufficiently entertaining that most students seem to like me. But that’s not the same as being reached by me or reached by the material. I could be a better individualized teacher. I could do a better job of teaching students rather than teaching content. I could be a little less oratorical—a little less of a showman in the classroom.

I think of myself as a strong scholar. I had some marvelous mentors at Yale—both at the law school, where I received a J.D., and in the history department, where I did my Ph.D. I researched and wrote my dissertation in a little over a year, and learned a great deal in that year about being a productive and efficient scholar. I write fluently and swiftly—sometimes I flatter myself that I write with elegance and power. I love to write, and it is one of my strengths as a scholar that I write every day—at least an hour, first thing in the morning. I love research less than I love writing, and I am still learning when to cease an inquiry. Sometimes I am afraid that I stop because I have grown bored, rather than because the well has run dry. The illustrious federal judge for whom I was a law clerk told me at the end of my clerkship that my greatest weakness was “an impatience with details.” This is a serious failing in a scholar. I don’t think I’m careless, and it is a strength, I think, that I am not afraid to start writing before I have turned over every leaf in the literature. But I probably need to turn over more leafs than I sometimes do. I probably need to inure myself to some boredom—after all, my chosen field is law!

I’m not sure how to evaluate myself as a citizen. I do what needs to be done and no more. I am a competent worker and contribute what I think are not terrible ideas, but I have no great gift for organization and no great love for meetings. I rarely spend more time on citizenship than I have to. I rarely go the extra mile. I think I made a real contribution to the law school’s curriculum committee last year—especially in preparing the way for a major and much needed change in our grading and honors policies. The major change in the grading policy stemmed from an idea that I put forth and defended—and I have tried hard to have the good grace not to take credit for it (I may be blowing it now).
II. PROFESSIONAL GOALS

A. Citizenship

My citizenship goals are simple: serve diligently on every committee I am assigned to serve on, consistent with what I think are the higher priorities of teaching and scholarship. I hope to be a dependable and congenial colleague, to work for consensus, to make meetings bearable with well-timed and witty repartees, to strengthen the law school as an institution and make it a better place for its students.

B. Teaching

I hope it isn’t boastful of me to hope in this regard to “keep up the good work.” My first-year evaluations were gratifying, and I hope I continue to teach in a way that students appreciate. Everyone wants to get better, but most of the ways in which I want to improve are less tangible. I want to be sensitive to spiritual promptings to identify and assist struggling students. I want to help prepare my students for life in the kingdom as well as life in the law. I want my students to sense that I love and care about them—and I want genuinely to love and care about them.

C. Scholarship

Here I can be more concrete. I wish to publish the manuscript of my expanded dissertation (which I have just finished and am about to submit) with a superior academic press. I hope to publish two law review articles each year in law reviews ranked in the top ten or twenty. I even have a list of the titles of my next seven articles:

1. *Appealing to Congress* (a comparative study of judicial constitutional remands to the legislature)
2. *Constitutional Justice as Public Memory* (a comparative study of how constitutional courts engage with their countries’ pasts)
3. *The Origins of Constitutional Justice in Europe*
4. *The Spread of Constitutional Justice in Europe*
5. *A Tale of Two Courts: Why the Influence of the German Federal Constitutional Court Exceeds that of the U.S. Supreme Court*
7. *The U.S. Constitution as a System of Values*

III. PERSONAL GOALS AND UNIVERSITY AIMS

I hope my scholarship advances President Hinckley’s charge that our faculty “shine a light into the disciplines.” I hope to bring honor to the school and create opportunities for its students by producing excellent scholarship that is recognized as such by colleagues both national and international. I hope to build the Kingdom by helping to teach and train a
generation of disciple-lawyers that will live righteously, serve their clients zealously, and contribute to the common good.

IV. RESOURCES

In this respect I am lucky. Most of what I do I can do with a laptop and a library. I will need to make several trips to archives in Europe, and those trips will likely be supported by the law school’s summer research funding program and supplemental research grants. I also hope to seek grants from various European institutions, such as the Max-Planck Institute in Germany and the Center for Constitutional Studies in Italy.

V. ACCOMPLISHMENTS TO DATE

Well, I’m a new scholar with a slender c.v. I’ve finished a book manuscript, published a book chapter, and have a pair of articles in the works that I will submit to law reviews in February. I’m not sure teaching evaluations count as accomplishments, but so far they are encouraging. I have presented as a panelist for the continuing legal education program of the Utah Bar, and in a few weeks will present at a conference in Bologna, Italy. I feel that I am in a position for the things really to take off quite soon. I am pleased in the present and sanguine for the future.

VI. ONGOING ASSESSMENT

I plan to continue the practice of recording each day the number of minutes spent writing each day, and to begin to record the number of words I write each week. I will obviously also continue to monitor my teaching evaluations, and hold myself to my goal of writing two major articles each year.
Scholarship Strategies Project

(1) Themes, Topics, Methods, or Applications

The theme of my scholarship is the role of constitutional courts in securing liberal and the tension between constitutional justice and liberal democracy. My method is one of comparative and historical analysis.

(2) Specific Goals to be achieved Before February 2015


b. Submit article “Appealing to Congress” to law reviews.

c. Submit article “Constitutional Justice as Public Memory” to law reviews.

(3) Specific Scholarly Strategies

a. Write for at least 60 minutes each morning. Record time spent each day and share it with someone.

b. Spend at least 60 minutes each day reading literature in my field. Record time spent in a personal log.

c. Join the comparative law section of the American Association of Law Schools.

d. Present drafts of each of my articles in at least two fora outside of the law school.

e. Send drafts of each article to at least five scholars I don’t yet know.

(4) Evaluating Success

For (a) and (b), I will keep a log. For the other three, evaluation should be straightforward.
Citizenship Project Proposal

Citizenship Goals to Be Completed Before February 2015

1. Get to know at least ten new scholars in my field and share a draft of my work with them.
2. Join the comparative law section of the AALS.
3. Make at least three “community” presentations outside the academy (local bar, schools, etc.).
Time and Location:

Office Hours:

Laptop Policy: No laptops. Plan to take notes with paper and pen.

Cell Phones: Cell phones must be turned off during class. If a genuine emergency (i.e., the imminent birth or death of a close family member) requires that you be reachable by phone, please speak with me before class. Otherwise, I expect any student whose phone rings during class to provide donuts for the group (there are about fifty of us) at the beginning of the next session.

Examination: There will be a CLOSED BOOK final exam on the morning of Wednesday, December 10 (specific time TBA). The exam will last three hours and will consist of two essay questions. According to University and Law School policy, permission to take an exam at a time other than the scheduled time will be granted only for a compelling reason. Travel, wedding, employment, or recreational plans are not compelling reasons. Please plan accordingly.

Grading: Grades will be based on the final exam.

Learning Outcomes: I hope that as a result of this course you will, among other things:

(1) Learn how to read judicial opinions with an eye on the relationship between a case’s procedural posture and its substantive outcome;

(2) Understand the distinction between bright-line “rules” and more general “standards”;

(3) Appreciate the relative roles of jury, trial court, and appellate court, including the distinction between questions of law and questions of fact, and the concept of standards of review;
(4) Recognize common legal arguments such as efficiency, fairness, distribution, precedent, slippery slope, problematic incentives, etc.;

(5) Distinguish common, statutory, and constitutional law;

(6) More ably offer counter-arguments and dissect claims and assertions regarding a particular law or policy;

(7) Acquire a basic understanding the law of real property, and the ways in which rights of ownership and use may be established, restricted, transferred, and divided among various persons;

(8) Think critically about competing approaches to the nature and ownership of property in our society.

University Policies: The University has asked all teachers to include the following statements in our syllabi:

Preventing Sexual Harassment

Title IX of the Education Amendments of 1972 prohibits sex discrimination against any participant in an educational program or activity receiving federal funds. The Act is intended to eliminate sex discrimination in education. Title IX covers discrimination in programs, admissions, activities, and student-to-student sexual harassment. BYU’s policy against sexual harassment extends not only to employees of the university but to students as well. If you encounter unlawful sexual harassment or gender-based discrimination, please talk to your professor, a law school dean, or contact the Equal Employment Office at 422-5895 or 367-5689 (24 hours).

Students with Disabilities

Brigham Young University is committed to providing a working and learning atmosphere that reasonably accommodates qualified persons with disabilities. If you have any disability, which may impair your ability to complete this course successfully, please contact Law School Assistant Dean Wendy Archibald and/or the University Accessibility Center (801.422.2767, 2170 WSC). Reasonable academic accommodations are reviewed for all students who have qualified documented disabilities. Services are coordinated with the student and instructor by the UAC office. If you need assistance or if you feel you have been unlawfully discriminated against on the basis of disability, you may seek resolution through established grievance policy and procedures. You should contact the Equal Employment Office at 801.422.5895, D-282 ASB.
Honor Code

In keeping with the principles of the BYU Honor Code, students are expected to be honest in all of their academic work. Academic honesty means, most fundamentally, that any work you present as your own must in fact be your own work and not that of another. Violations of this principle may result in a failing grade in the course and additional disciplinary action by the university.


READING SCHEDULE

UNIT ONE: HISTORICAL INTRODUCTION TO THE LAW OF PROPERTY

Class 1 (8/26): Trespass (51-68)

Class 2 (8/28): Native American Property Claims (3-26)

Class 3 (8/29): A Brief History of Land Allocation and Protection in the United States, Limits to Privatization (26-49)

UNIT TWO: THE RIGHT TO EXCLUDE AND ADVERSE POSSESSION

Class 4 (9/2): Encroachments, Limits on the Right to Exclude (68-86)

Class 5 (9/4): Constitutional Limits on the Right to Exclude, Adverse Possession (86-107)

Class 6 (9/5): Adverse Possession continued (107-124)

UNIT THREE: NUISANCE AND ZONING

Class 7 (9/9): Private Nuisance (124-140)

Class 8 (9/11): Public Nuisance (140-161)

Class 9 (9/12): Introduction to Zoning (933-947)

Class 10 (9/16): Protection of Expectations (947-961)
Class 11 (9/18): Protections Against Discrimination in Zoning (1016-1035)

UNIT FOUR: OBJECTS OF OWNERSHIP

Class 12 (9/19): Fish and Wildlife (203-220)
Class 13 (9/23): Oil and Gas (220-238)
Class 14 (9/25): Oil and Gas continued, Intellectual Property (238-246, 269-79)
Class 15 (9/26): Intellectual Property continued (279-294)
Class 16 (9/30): Cyberspace (294-306)
Class 17 (10/2): Human Cells and Body Parts (306-320)

No Class on 10/3

UNIT FIVE: RECORDATION AND TITLE

Class 18 (10/14): The Record System (413-431)
Class 19 (10/16): How the Title Search Works (431-442)

UNIT SIX: PRESENT AND FUTURE INTERESTS

Class 20 (10/17): Present Interests in Land (517-534)
Class 21 (10/21): Future Interests (534-544)
Class 22 (10/23): Rules Eliminating Troublesome Future Interests (544-562)
Class 23 (10/24): Restraints on Alienation (562-574)
Class 24 (10/28): Protection of Future Interests (574-596)

UNIT SEVEN: LANDLORD-TENANT

Class 25 (10/30): The Right to Quiet Enjoyment (597-611)
Class 26 (10/31): The Warranty of Habitability (611-627)
Class 27 (11/4): Landlord Rights and Remedies (650-667)
UNIT EIGHT: SHARED INTERESTS IN PROPERTY

Class 28 (11/6): Concurrent Estates (679-693)
Class 29 (11/7): Disagreements Among Cotenants, Partition (693-716)
Class 30 (11/11): Express Easements (765-781)
Class 31 (11/13): Easements by Implication and Necessity (793-809)
Class 32 (11/14): Easements by Prescription (809-820)
Class 33 (11/18): Covenants and Servitudes (838-861)
Class 34 (11/20): Terminating Easements, Covenants, and Servitudes (888-905)
Class 35 (11/21): Conservation Easements (905-922)

UNIT NINE: PROPERTY AND LEVIATHAN

Class 36 (11/25): Eminent Domain (171-192)
Class 37 (12/2): Takings (1077-1090)
Class 38 (12/4): Takings continued (1090-1102)
Class 39 (12/5): Course Review