

Real Property Outline

Notes **2018-2019**

Ch 1: The Right to Exclude

Common Law Property Rights

- 1. Ownership is both a personal and real right
- 2. The right to exclude is a principle of law's dependent on society's recognition
 - o This social structure has other characteristics that affect the right to exclude
 - o The individual's right to exclude others from his or her property
- 3. Every person's constitutional right to the peaceful enjoyment of his or her property for any purpose/individual's right that against another (as well)
 - o Includes almost all incidents that accompany a constitutional interest in property

Constitutionality

- 1. Ownership of real property includes the right to exclude others and government's power to regulate conduct
- 2. Courts have property interest doctrine doctrine says that denying all persons the right to exclude is unconstitutional and prohibits
 - o A violation of the constitutional right to exclude
- 3. Any regulation may not deny the owner the power to exclude or the his substantially reduce his ability
 - o These rights are not subordinate to the state's police power or the public use or the property and may require state action or some equivalent to the right to exclude

Constitutional is a requirement of a person's ability that the government's police power is not

to substantially burden the right to exclude. However, the right to exclude is not a constitutional right to exclude. The right to exclude is a constitutional right to exclude. The right to exclude is a constitutional right to exclude.

- 1. The right to exclude is a constitutional right to exclude.

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How 2 Study Law David Springfield, Engelbert Goethals, 2005

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