

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 that actual ownership has certain characteristics that give it the right to exclude others from the use of the 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)
- 4. Includes almost all incidents that accompany a full ownership interest in real property

Constitutionality

- 1. Ownership of real property includes the right to use and enjoyment of the property, including the right to exclude others
- 2. The right to exclude others from the property is a fundamental right of property
- 3. Any government action that interferes with the right to exclude others from the property is a violation of the right to exclude others from the property
- 4. The right to exclude others from the property is a fundamental right of property

Constitutionality is a principle of law that the government's actions are subject to the right to exclude others from the property.

In *United States v. Jones*, the Supreme Court held that the government's actions in installing a GPS tracking device on a car without the owner's consent violated the Fourth Amendment's protection against unreasonable searches and seizures.

- 1. The government's actions in installing a GPS tracking device on a car without the owner's consent violated the Fourth Amendment's protection against unreasonable searches and seizures.

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