

# Public Purpose Finance: Fair Housing & Climate Mitigation



Nadav Orian Peer

Classes meet in Room 304, Thursdays, 02:30pm-04:30pm

Office hours Wednesdays, 02:30 pm-04:30pm (259B) or by appointment

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## A. Course Description

It is a little appreciated fact that one of the central goals of U.S. financial law is to channel credit into activities and sectors deemed vital for the public interest. Such "public purpose finance" supports private borrowers whose projects promote publicly determined goals. With over one quarter of the U.S. bond market –some \$10 trillion– the political stakes of public purpose finance are enormous, though they are rarely discussed.

Our seminar will include three components.

1. Financial institutions- the introductory sessions will provide students with all the necessary background by familiarizing them with basic financial concepts and institutions (E.g., what is a bond? How do banks work?). We will use this working knowledge to explore two case studies.
2. Housing Finance- The first case study concerns housing policy in the U.S., which accounts for the lion's share of public purpose finance today. The institutions and legislation we will discuss include Government State Enterprises (primarily, Fannie Mae, Freddie Mac) and (as a counterpoint) the private label securitization market. We will study the considerable achievements of the existing system in expanding access to credit for homeownership, but also its serious shortcomings with respect to racial and economic inequality.
3. Green Finance- The second case study concerns green finance, which addresses the large investments that are necessary to transition into a low carbon economy. Issues covered under this section will include the concept of "green bonds", the role of Fannie Mae as the largest issuer of Green Mortgage Backed Securities in the U.S., recent litigation around PACE (Property Assessed Clean Energy) financing, as well as newly chartered "Green Banks" now operating in states including New York, California and Vermont. We will build on our discussion of housing finance to examine the design choices that are available with respect to climate finance.

No background in finance or economics is required and students from all backgrounds are encouraged to register to the seminar.

**B. Learning Outcomes**

1. Substantive Law
  - 1.1. Understand the main legal frameworks that shape access to housing credit in the U.S. today, and their historical evolution;
  - 1.2. Understand the distributive effects of these legal frameworks with respect to racial and economic inequality;
  - 1.3. Understand different legal reforms that are intended to improve access to credit to communities of color and low-income households, and evaluate their strengths and weaknesses;
  - 1.4. Understand the emerging legal infrastructure for channeling credit into climate mitigation, and build on our learning from housing finance to assess them;
2. Legal Skills
  - 2.1. Gaining fluency in key financial law concepts in banking and capital markets;
  - 2.2. Implement these concepts in the context of community development and environmental law;
  - 2.3. Crafting and evaluating policy arguments and policy implications for legal reform;
  - 2.4. Interpreting statutes and rules;
3. Assessment
  - 3.1. The above learning outcomes will be evaluated through active class participations (20%), a research proposal and oral presentation (20% combined) and a final research paper (60%).

**C. Attendance, Reading & Participation Policy**

Regular class attendance, reading and participation are required and essential for successful and engaged learning:

- The reading load will be kept manageable, aiming at around 3 hours of reading per week;
- Attendance and informed participation in class discussion will count towards 20% of students’ final grade.
- This grading for this component will consist of “points” that can be earned through attendance and participation (see Point Metric below). Students with 5-6 points will receive an A; students with 4 points will receive a B; students with 3 points will receive a C; students with 2 points will receive a D; and students with one or zero points will receive an F.

**Table 1: Point Metric for Attendance and Participation Component (20%)**

	Attendance	Participation
3 points	No more than 1 absence	Participation in almost all classes
2 points	No more than 3 absences	Participation in about half of the classes
1 point	No more than four absences	Sporadic participation

- While attendance is required, it is understood that students sometimes have to miss class due to emergencies and life transitions (“justified absences”). Justified absences will not affect a student’s grade provided students notify the instructor and make up the relevant material. If you need to miss a class, please contact me as soon as possible ([norianpeer@tulane.edu](mailto:norianpeer@tulane.edu)) and you will receive full support in making up the material;
- Absences that are excessive and unjustified (more than four absences) may result in automatic withdrawal from the seminar or further grade reduction.

#### D. Required Course Materials

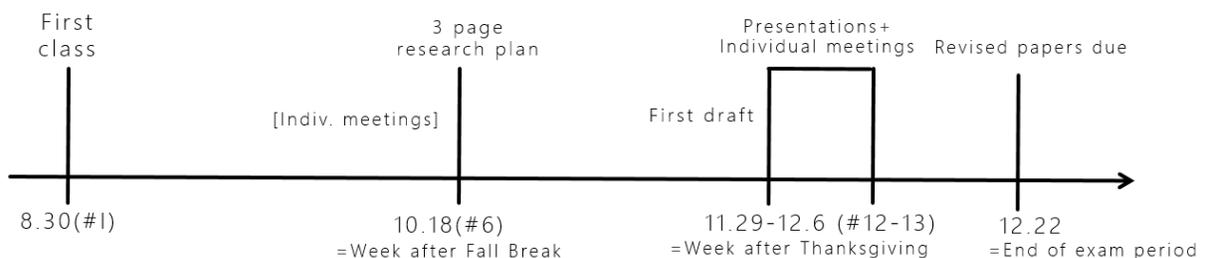
All required readings are available on our class dropbox, and printed copies will be provided on a weekly basis (see Reading List below). To keep the reading load manageable, the readings are excerpted (no need to look online and read the full documents).

#### E. Research Papers, Research Plans & Oral Presentations

The seminar will prepare students to write an original research paper, in fulfillment of the upper-class writing requirement.

- The paper will consist of no fewer than 25-double-spaced pages;
- A three-page research plan will be due **Oct. 18, 2018**. As part of the development of the research plan, we will schedule individual sessions at office hours;
- A first draft of the final paper will be submitted by **Nov. 29, 2018**;
- Students will present their work in progress in special presentation sessions on **Nov. 29, Nov. 30 (Friday, 10:30 am) and Dec. 6, 2018**.
- Research plans and oral presentations will count towards 20% of the final grade, with equal weight;
- Students will receive comments on their first draft in individual sessions in office hours;
- Revised versions are due **Dec. 22, 2018**.
- Extensions will be granted on an as needed basis. If you foresee that you will need an extension, kindly contact me as early as possible, so we can work out a revised timeline.

**Figure 1: Timeline for Research Papers, Research Plans & Oral Presentations**



#### F. Office Hours

Office hours will be held Wednesday, 02:30pm-04:30pm at 259B. During those hours, I will be available to students wishing to avail and revise class material etc. We will also use this time to schedule special sessions for developing the research plan and comments on the first draft of the research paper. If you are interested in coming to office hours but have conflicting commitments, kindly write me and we will find another time.

## G. Reading List

#	Date	Subject/Readings
1	Oct. 30	<b>Introduction: Part I</b> This one is a freebie.
2	Sept. 6	<b>Introduction: Part II</b> <ul style="list-style-type: none"> <li>- Nancy Denton, American Apartheid: Segregation and the Making of the Underclass, 1995 (YouTube, first 30 minutes);</li> <li>- UN Environment, 2017 Emissions Gap Report;</li> <li>- Michael Lind, Public Purpose Finance (2010).</li> </ul>
3	Sept. 13	<b>Fannie Mae: The Basic Mechanics and Regulatory Structure</b> <ul style="list-style-type: none"> <li>- Weiss &amp; Jones, An Overview of the Housing Finance System in the United States, Congressional Research Service (2017);</li> <li>- Federal National Mortgage Association Charter Act, Title III of National Housing Act, 12 U.S.C. 1716 et seq;</li> <li>- Laurie Goodman, A Realistic Assessment of Housing Reform, Urban Institute (2017).</li> </ul>
4	Sept. 20	<b>Fannie Mae: Housing Goals</b> <ul style="list-style-type: none"> <li>- Federal Housing Finance Agency (FHFA), Annual Housing Report (October 2017).</li> <li>- 12 USC Ch. 46: Government Sponsored Entities (from Title 12: Banks and Banking).</li> </ul>
5	Sept. 27	<b>Climate Finance: Three Legal Frameworks in Search of a Policymaker</b> <ul style="list-style-type: none"> <li>- Recommendations of Task Force on Climate-related Financial Disclosures (2017);</li> <li>- Climate Bond Initiative, The Green Bond Principles (2018);</li> <li>- Mexico City Airport Trust Green Bond (Second Opinion by Sustainalitics, 2016)</li> <li>- Fannie Mae, Multifamily is Giving You the Green to Go Green;</li> <li>- Fannie Mae, Green Mortgage Backed Securities (2018)</li> </ul>
6	Oct. 4	<b>Fannie Mae: Duty to Serve Rule: Affordable Housing &amp; Energy Efficiency</b> <ul style="list-style-type: none"> <li>- Affordable Housing Programs, Ch. 6 from Carol Brown, “Experiencing Housing Law”;</li> <li>- Choice Neighborhoods (Program Purpose and Fiscal Year 2017 Budget Overview);</li> <li>- Enterprises Duty to Serve Underserved Markets, 12 CFR Part 1282;</li> <li>- Fannie Mae, Duty to Serve Underserved Market Plan for the Affordable Housing Preservation Market (Effective January 1, 2018)</li> </ul>

7	Oct. 18	<p><b>Emissions Trading, Offsets and the Case of Compost (Special guest lecture by Lynne Serpey from Compost NOW!)</b></p> <ul style="list-style-type: none"> <li>- Daniel Farber &amp; Cinnamon Charlarne, Climate Change Law, Ch.4: Putting a Price on Carbon (2018, Foundation Press);</li> <li>- Platt et al., The State of Composting in the US, What, Why, Where &amp; How (Institute for Self Reliance, 2014).</li> <li>- Tierra Resources, Press Release, Aug 16, 2015</li> <li>- EPA, Innovative Uses of Compost: Reforestation, Wetlands Restoration and Habitat Revitalization.</li> </ul>
8	Oct. 25	<p><b>The New Orleans Redevelopment Authority (NORA) (Special guest lecture by Seth Knudsen from NORA)</b></p> <ul style="list-style-type: none"> <li>- The Legal Framework: LA Rev Stat §§ 33:4625, 470.55</li> </ul> <p><i>Program Case Studies:</i></p> <ul style="list-style-type: none"> <li>- Neighborhood Stabilization Program (NSP);</li> <li>- Orleans Housing Investment Program in Lower Ninth Ward (O-HIP L9);</li> <li>- Growing Green;</li> <li>- Commercial Development Gap Financing Program and Façade Renew.</li> </ul>
9	Nov. 1	<p><b>The Subprime Mortgage Market</b></p> <p>Patricia McCoy and Kathleen Engel, Predatory Lending and Community Development at Loggerheads, in Financing Low-Income Communities: Models, Obstacles, and Future Directions (2007).</p>
10	Nov. 8	<p><b>PACE and Green Banks</b></p> <ul style="list-style-type: none"> <li>- California v. Federal Housing Finance Agency. et al (2011);</li> <li>- Country of Sonoma v. Federal Housing Finance Agency (2013);</li> </ul> <p><i>Optional watching:</i></p> <ul style="list-style-type: none"> <li>- "Today's Sustainability featuring Connecticut Green Bank" on YouTube (search the title);</li> <li>- The 2009 Green Bank event by New America (search for "green bank reed hundt" on YouTube. The video is 1:03:14 long).</li> </ul>
11	Nov. 15	<p><b>Affirmatively Furthering Fair Housing and Equal Protection</b></p> <p>Blake Emerson, Affirmatively Furthering Equal Protection: Constitutional Meaning in the Administration of Fair Housing." Buff. L. Rev. 65 (2017): 163.</p>
12	Nov. 29,	[TBC]
13	Nov. 30,	[TBC]
14	June 6	[TBC]

## H. Safe Learning Environment

Tulane University recognizes the inherent dignity of all individuals and promotes respect for all people. As such, Tulane is committed to providing an environment free of all forms of discrimination including sexual and gender-based discrimination, harassment, and violence like sexual assault, intimate partner violence, and stalking. If you (or someone you know) has experienced or is experiencing these types of behaviors, know that you are not alone. Resources and support are available: you can learn more at [titleix.tulane.edu](http://titleix.tulane.edu). Any and all of your communications on these matters will be treated as either Confidential” or “Private” as explained in the chart below. Please know that if you choose to confide in me I am mandated by the university to report to the Title IX Coordinator, as Tulane and I want to be sure you are connected with all the support the university can offer. You do not need to respond to outreach from the university if you do not want. You can also make a report yourself, including an anonymous report, through the form at [tulane.edu/concerns](http://tulane.edu/concerns).

<b>Confidential</b>	<b>Private</b>
<i>Except in extreme circumstances, involving imminent danger to one's self or others, nothing will be shared without your explicit permission.</i>	<i>Conversations are kept as confidential as possible, but information is shared with key staff members so the University can offer resources and accommodations and take action if necessary for safety reasons.</i>
<b>Counseling &amp; Psychological Services (CAPS)   (504) 314-2277 or The Line (24/7)   (504) 264-6074</b>	<b>Case Management &amp; Victim Support Services   (504) 314-2160 or <a href="mailto:orsrss@tulane.edu">orsrss@tulane.edu</a></b>
<b>Student Health Center   (504) 865-5255</b>	<b>Tulane University Police (TUPD)   Uptown - (504) 865-5911. Downtown – (504) 988-5531</b>
<b>Sexual Aggression Peer Hotline and Education (SAPHE)   (504) 654-9543</b>	<b>Title IX Coordinator   (504) 314-2160 or <a href="mailto:msmith76@tulane.edu">msmith76@tulane.edu</a></b>

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