

Law 203 -- PROPERTY

Instructor in Charge: Prof. Peterson

Time allowed (for essay section): 2 hours, 20 minutes

Special Instructions:

The essay section of this examination is open book. You may consult your casebook, course reader, handouts (including assignment sheets and ASP handouts), class notes, and any outline that you have prepared yourself. You may not use other materials, including commercial outlines, hornbooks or treatises. You may not access materials online during the exam.

There are two questions. The points and the suggested time allotted to each question are as follows:

Question #1 -- 100 minutes -- 100 points
Question #2 -- 40 minutes -- 40 points
Total: 2 hours, 20 minutes -- 140 points

Think carefully and organize your answer before you start writing. If you find it necessary to make any assumptions as to fact or law for purposes of your answer, state what they are. Do not just write your conclusions. Be sure to explain your reasoning.

The essay section of this exam consists of 6 pages. Please make sure that you have all 6 pages.

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Standard instructions:

Laptop Users: Create a header in a new Word document that includes your exam number, course name, instructor name, and semester. Title the document with the course name, instructor name, and your exam number (e.g.: Contracts_Berring_0234) and save it to your hard drive. Be sure to format your document with page numbers and double-spacing.

PROPERTY

Fall 2009 Exam

Writers: Place your exam label or clearly print your exam number on the cover of all bluebooks. Write the course name and instructor's name on each bluebook. Number your bluebooks to indicate their order, and state the total number of bluebooks that you are submitting (1 of 4, 2 of 4, etc.)

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If you need to leave the room during the exam, you may not take any of the exam materials with you.

When time is called, please stop typing/writing promptly and turn in your copy of this exam and your answers.

Please do NOT leave your exam or bluebooks on the desk.

All copies of this exam and bluebooks must be turned in to the person in charge, or if you finish early, must be taken to Exam Headquarters (Room 123).

Question #1 (100 points)
(suggested time: 100 minutes)

It's December 10, 2009. You are a new associate in a law firm in the City of X in the State of Y. You have been asked by Priscilla Partner (P) to join her in a meeting with Connie (C), the 20-year-old daughter of her close friend. Connie needs some pro bono legal advice.

Connie proceeds to explain her situation to you and Priscilla.

"My husband, Bob (B), and I are students. We were married in June of this year, and we both started attending a nearby community college in September. We don't have any debts, because the community college is so affordable, but we have had to live frugally. We both have part-time jobs, and our wages have just barely covered our rent, food, and other expenses.

"We rented a studio apartment on September 1, 2009, and we were happy to sign a two-year lease, since we plan to be at the community college for two years. The rent is \$800 a month, which we thought was the going rate for a studio apartment. Now, talking to other students, we have figured out that our rent is actually higher than the market rate for this type of apartment. Besides that, there are some real problems with our living situation.

"Our studio apartment is a rental unit that was added to the back of our landlord's house. Our landlord, Lewis (L), turns out to be quite a party guy. He often throws loud parties that go late into the night, even on weeknights. We can't get our studying done at home, and it's hard to get enough sleep.

"Also, the apartment is drafty and the heater is old and doesn't work very well. Now that the weather is colder, we have to bundle up to stay warm in our apartment. I've been wearing an outdoor jacket inside to keep warm.

"In early November, my Great-aunt Millicent (M) died. She's the sister of my Grandma Jennie (J). Great-aunt Millicent never married and never had children. She and I were close, and she left me \$50,000 in her will. She also left me her half interest in the house that she and Grandma Jennie have been living in for years. Grandma Jennie, who is a widow, is still living there. It's a pretty two-story house about five miles

Question #1 (cont'd.)

from our rental unit. It's in a very nice neighborhood with lots of older homes.

"Bob and I are not happy living in our studio apartment, so I've been trying to think through my options. I've been thinking that maybe we should break our lease and move into the house with Grandma. We would want to have our own separate living unit, but I think that could be done. I could use some of the \$50,000 I was given by Great-aunt Millicent to renovate the house, making it into two separate living units. If we added a small kitchen upstairs, we could use the top floor of the house. We could even create a separate entrance. Then we could keep an eye on Grandma, who is getting older, and yet we would have some privacy.

"I asked Grandma what she thought of the idea. She said that under private covenants, all the lots in her neighborhood are restricted to single-family residential use, even though the area is zoned for all types of residential use. But Grandma said she is sure no one would mind having Bob and me live there with her, since we're family.

"I'm more worried about our landlord than about the neighborhood restrictions. He hasn't been very friendly or accommodating. We might be able to have someone take over our lease, but who would want to? Besides, our lease says that we need the landlord's consent to assign or sublet.

"I know we signed the lease, but I really would like to leave. Bob and I aren't getting along very well, probably because we are living in such cold, cramped quarters without enough sleep. Our relationship is a bit strained, and a new living environment might help."

Priscilla listened carefully to Connie and then assured her, "We'd be happy to give some thought to your situation. Are there specific issues you would like us to consider?"

Connie responded, "Well, I have a lot of questions. Here's the list:

"(1) If we decide that we don't want to keep living in our apartment, what could our landlord do if we decide to end our lease early and leave?"

Question #1 (cont'd.)

"(2) If we found a responsible person to take over the rest of our lease, would our landlord have to agree to that? If our landlord did agree, would that mean that we were no longer responsible for the rent for the rest of the two-year lease?

"(3) Should I be concerned about Grandma saying that all the lots in her neighborhood are restricted to single-family residential use? Even if the lots are restricted, couldn't I get out of the restriction because I never agreed to it and I didn't know about it when Great-aunt Millicent left me her share of the house?

"(4) If I spend part of my \$50,000 to create two living units in the house and the house is later sold, will I get back the money I spent?

"(5) I hope this will never happen, but if Bob and I split up, will I still own half the house and whatever is left of the \$50,000, assuming that I put the money in a bank account in my name only?

"(6) I started thinking about the expenses involved with owning a home. If I decided not to live in the same house as Grandma and she was just living there alone, would she be responsible for paying the property taxes?"

Priscilla tells Connie she'll get back to her soon with answers to her questions. After saying goodbye to Connie, she turns to you and says, "Thank goodness you took a property course in law school. I know almost nothing about the issues she raised. Please write me a memo responding to Connie's questions, based on what you know about her situation and your knowledge of property law. Just be sure to tell me in the memo whenever you need to learn more about the relevant law or facts."

Please write a memo to Priscilla Partner, responding to Connie's questions.

Question #2 (40 points)
(suggested time: 40 minutes)

If you were a state legislator who was considering proposing legislation altering the common law doctrines of adverse possession and prescriptive easements as they apply to real property, what would you propose and why?