
EXAM NUMBER**PROPERTY LAW – CROUCH
Spring 2018**

Honor Code Reminder: Under the Honor Code, the submission of any academic work constitutes a representation on the student's part that such work has been done and submission is being made in compliance with all applicable provisions of the Code.

EXAM INSTRUCTIONS

1. **START OF EXAM:** *Do not start reading (other than this cover page) or writing on scrap paper until the proctor starts the exam.*
2. **EXAM NUMBER:** Write your exam number on the line above.
3. **LENGTH of EXAM:** THREE (3) HOURS
4. **EXAM MODE:** The exam is to be taken using the OPEN LAPTOP mode.
5. **MATERIALS:** OPEN BOOK EXAM

During the exam, you may use the assigned casebook, any reading assigned in class, and any of your own work-product. Your work product includes any material that you substantially participated in developing. You may not access the internet during the exam.

6. **NUMBER OF PAGES:** This exam consists of **4 pages**. Please check to make sure that you have the correct number of pages.
7. **SPECIAL INSTRUCTIONS:**
 - a. **Topics:** The exam is designed to focus on assigned reading and class discussion.
 - b. **Word limits:** There will be a penalty for going over the word limit *and* you will receive no points for the portions beyond the limit. Points allocated for each question *roughly* correspond to the respective word limits.
 - c. **Location:** Assume that all events take place in the United States, except as otherwise indicated. This exam is entirely fictional.

*** DO NOT BEGIN EXAM UNTIL TOLD TO DO SO ***

Question 1 SHARKIE and CITIZEN were a married couple who co-owned seven plots of land in Crumbia, Missouri (PLOTS A to G) held in Fee Simple Absolute. The couple had one adopted child ASTRAL who was 100% beneficiary in the WILL of each parent. One sad day, SHARKIE's negligent driving caused a tragic banana accident and substantial monetary harm to MONKEY.¹ After winning his negligence lawsuit, MONKEY filed paperwork to force SHARKIE and/or CITIZEN to transfer title of their vacant PLOT-A whose value had been appraised as equivalent to the damage-award. SHARKIE was about to sign-over the land to MONKEY, but CITIZEN and ASTRAL both objected.

Question 1(a) (200 words) Will MONKEY be successful in getting PLOT-A? (What if SHARKIE does sign and deliver the deed?)

Question 1(b) (300 Words) PLOT-B is developed with a house divided into three residential apartments. All three tenants are WHITE WOMEN ATTENDING LAW SCHOOL. NON-STUDENT WHITE MAN had applied to be one of the tenants but was turned down because SHARKIE prefers to rent to graduate students. (Note, CITIZEN had given SHARKIE full rights to run the Leasing Business).

One of the tenants, (JENN) did not inspect her apartment before signing the one-year LEASE. Soon after moving in, she noticed that the walls were quite thin and that she could hear the second tenant (NAT) playing music each night loud enough to wake her up. In addition, JENN's OVEN does not work and has never worked.

SHARKIE has no sympathy and simply hums "CAVEAT LESSEE" while that Beyoncé tune plays in his head. JENN wants either (1) the problems fixed or (2) to move-out. What are her options?

Question 1(c) (300 words) SHARKIE and CITIZEN are planning to sell PLOTS C, D, and E. They would like the new owners to be restricted to building only one single-family-residence per lot. Provide guidance on whether they should (a) bind the lots with a restrictive covenant allowing only single-family-residential use; (b) transfer only a determinable estate and retain a possibility-of-reverter triggered by use of land for non-single-family-residential purposes; *or* (c) push a zoning ordinance through the city council that limits the area to single-family-residential use?

Question 1(d) (300 words) In 2006 NEW-NEIGHBOR purchased PLOT-F and also an easement across PLOT-G for ingress-and-egress (a back entrance). NEW-NEIGHBOR then built a large back-fence that surrounded the entire easement area and even went about 10-feet further into PLOT-G (that he did not own). He used this area exclusively and to his benefit –

¹ MONKEY is an person, as are all the characters in this tale.

taking over about 30% of PLOT-G. Still, for the most part NEW-NEIGHBOR just used the extra area to drive across.

Even though they lived nearby, SHARKIE and CITIZEN did not actually notice the encroachment.

Here is another sad-part of the story. SHARKIE and CITIZEN both died in 2010 and ASTRAL inherited PLOT-G. ASTRAL was not a good manager, she was only a 12-year-old child. When she turned 18, ASTRAL decided to move to CANADA (following a major November event that year). Before moving, she sold PLOT-G to WALTER (early 2017).

Because ASTRAL's inheritance had not yet been recorded, she recorded her ownership interest in PLOT-G just before the sale. WALTER financed his purchase through BANK. Both WALTER's purchase and the BANK mortgage were promptly recorded after the sale.

It is now May 1, 2018 and WALTER has now just learned of NEW-NEIGHBOR's encroachment into PLOT-G. What are WALTER's RIGHTS and OPTIONS?

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Question 2 (500 words) NIEMANN's large collection of self-portraits is surprisingly valuable. (I'll note here, NIEMANN calls these "self-portraits" because he is the subject. They were actually created by various artists.)

Several years ago NIEMANN wrote, signed, and delivered the following letter to NEPHEW:

Dear NEPHEW

As you remember, I have a fabulous self-portrait collection. I am retaining a life estate in my collection, and hereby give you the remainder interest that will take possession upon my death.

Yours truly, NIEMANN (11/11/2013)

NEPHEW did not truly care for the collection, but he did love his uncle and smiled when he received the letter.

More recently, LIDSKY suggested to NIEMANN that he donate the collection to the LAW SCHOOL. NIEMAN agreed and modified his WILL to indicate that that the LAW SCHOOL would receive the collection and all associated rights upon his death. NIEMANN delivered a copy of his WILL to LIDSKY and also sent the following letter to NEPHEW:

Dear NEPHEW

I have decided that the LAW SCHOOL should have my fabulous self-portrait collection, which has continued to grow. I hereby revoke my prior gift. Have a wonderful day!

Yours truly, NIEMANN (5/3/2016)

NEPHEW did not respond; neither in protest nor acceptance.

Also in 2016, Nieman took several of the portraits to FRAME-SHOP. While awaiting pickup, however, a CLERK mistakenly sold them to DEALER for a pretty low price. DEALER also made copies of one of the portraits and started selling individual reprints.

Here comes another sad part. NIEMANN died in 2017. In addition to the aforementioned LAW SCHOOL gift, NIEMANN's WILL also recited a gift of his OSAGE BEACH HOME to NIECE. NIECE quickly sold the house to THREESEASONS who took possession and began renting-out HOME as a vacation-rental. Nobody was able to find NIEMAN's collection after his death.

Then, in 2018, ROYCE was on one-week vacation at the OSAGE BEACH HOME as a paid-customer when he heard an extremely high-pitched noise (out of the aural range of ordinary humans) that prevented him from sleeping properly. Upon investigation, he found a hidden vault and cracked the electronic lock. As you might guess, the fabulous self-portrait collection was there in the vault. (Absent portraits sold to DEALER and the aforementioned reprints.) *Who owns the portraits?*

THE END