

Write your Exam Number Here: \_\_\_\_\_

**Introduction:** This examination consists of three essay questions (with sub-parts). This is a **3 hour in-class examination**. The exam covers concepts derived from the assigned reading and in class discussions. The best answers will rely upon those concepts to provide a full explanatory answer to each question presented.

**Materials allowed:** During the exam, you may use your assigned casebook, and any reading assigned in class, and any of your own work-product. Your work product includes any material that you substantially participated in developing. Thus, your “group outline” would be permitted, but not a commercial outline. No other materials may be used during the exam. You may not access the internet during the exam.

**Blind Grading:** Write your examination number in the space indicated above on this page. Do not put your name on anything in connection with this examination. At the end of the exam, you must return this paper.

**Writing answers:** The essay questions are divided into subsections. The best answers will follow the same exam structure. Thus, the answer to question 1(a) should be labeled 1(a). Fully explain your reasoning and thought process supporting each answer -- including an analysis of why potential answers were excluded.

**Word limits:** I have imposed word limits on each essay question. There will be a penalty for going over the word limit *and* you will receive no points for the portions beyond the limit.

**Location:** You should assume that all events take place in the United States and that all characters are located in the United States, except as otherwise indicated.

**Question 1**

The college town of Crumbia, Missouri has seen a building boom of late with a number of new student apartments already built and others in planning stage. Many in the community see the developments as problematic: destroying downtown traditions; increasing traffic problems; deforestation; overtaxing public utilities; etc. Some also expect that the developers are looking for a “quick buck” and that the combination of low-quality construction and lower-than-estimated demand will result in a detrimental glut of low-quality housing in the heart of the city.

A new Mayor was just elected on a platform of “doing something about these problematic apartments.” The Mayor’s first plan is to establish a zoning ordinance that would include a substantial greenspace requirement for all downtown lots with new buildings (built within the past 5 years). Some of the new buildings have sufficient undeveloped space so as to comply with the ordinance while others do not. Future builders would prefer not to comply.

**Question 1(a)** (200 words) Would the new zoning ordinance be enforceable?

**Question 1(b)** (250 words) One of the undeveloped lots is owned by POWELL who hopes to make a substantial amount of money by selling the lot to a developer. However, the duly recorded title transfer of the lot from ROLLINS to POWELL includes a statement that “if the land is ever used as a boarding house then the University of Missouri has a right-to-enter as fee simple owner.” Potential buyers have expressed some fear that the limitation on title might be triggered by their development of an apartment building. What steps can POWELL take to eliminate (or lessen) that risk?

**Question 1(c)** (250 words) Another building owner, KENNEDY, advertises apartments available for “College Students.” Some of the town folk are offended by the seeming discrimination. A single MOTHER sees the ads and perceives that “college students” is code for “no children” while an elderly HOMBRE (man) perceives the ads as code for “no elderly.” Both MOTHER and HOMBRE decide to sue. Do they each have a case under the Fair Housing Act of 1968 (as amended)?

42 U.S.C. § 3604(a)-(c) is substantially reproduced below. Please cite it as appropriate.

[I]t shall be unlawful—

(a) To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, sex, familial status, or national origin.

(b) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion, sex, familial status, or national origin.

(c) To make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, sex, handicap, familial status, or national origin, or an intention to make any such preference, limitation, or discrimination.

**Question 1(d)** (300 words) KHAN purchased one of the lots TONICACRE to build an apartment in a quitclaim deed. In the course of excavation, one of KHAN's employees (ANUBIS) discovered a tattered metal box several feet under the earth. ANUBIS brought the box to KHAN who (thinking it worthless) indicated that ANUBIS could keep the box. That night, ANUBIS worked for several hours and eventually opened the box (after breaking a few tools in the process). Inside he found valuable GOLD. The next day he sold the gold to THEA who operates a "WE BUY GOLD" kiosk at the Crumblia Mall. When KHAN later heard about the deal he wanted the GOLD back (or at least the money). He argues that he gave ANUBIS the box, not the gold therein. Who wins?

**Question 1(e)** (300 words) It is now four years later (the year 2020) and KHAN has died. KHAN had duly executed his WILL in 2017, in which he purported to give his friend PHILOTES a life estate in TONICACRE. The WILL distributed the remainder of his assets to his two favorite charities (CHARIDEE and CHARIDUM) as tenants-in-common. After executing his WILL, but before he died, KHAN married and purported to use a straw-conveyance to transfer ownership of TONICARE to KHAN (herself) and KHANT (the spouse) as tenants-by-the-entirety. Assuming KHANT does *not* assert a marital privilege to 'take-against-the-will,' who-owns-what at this point (after KHAN dies)? As a side issue, although CHARIDEE is happy with the setup, CHARIDUM wants to sell off its inheritance -- can CHARIDUM break the co-tenancy and do and sell-out?

**Question 2** (300 words)

Please explain (with examples as appropriate) the meaning of the following statement: The elements of horizontal privity and notice are not necessary for a real covenant benefit to run with the land.

**Question 3** (400 words)

One of the traditional “benefits” of marriage in Missouri is the ability to own property as tenants-by-the-entirety. In the wake of *Obergefell v. Hodges*, 576 U.S. \_\_\_\_ (2015) (holding that the U.S. Constitution guarantees the right to marry is guaranteed to same-sex couples), the Missouri legislature is considering changes to the definition of marriage, including elimination of tenancy-by-the-entirety as a form of co-ownership.

The House Committee on Legislative Research has asked you to provide a memorandum focusing on potential benefits and harms of such a shift and particularly highlighting its impact on married individuals and their dependents, creditors, and those undergoing divorce. Please do not concern yourself with the Constitutional issues at this point.