

**LAW 7122-03: PROPERTY II**

**MIDTERM EXAMINATION, SPRING 2012**

**Prof. Tom W. Bell**

Tuesday, March 6, 10:15 to 11:30 a.m.

Please write your exam number here: \_\_\_\_\_ and turn in this exam with your answers. If you fail to turn in your exam you may forfeit some or all of your grade.

This exam consists of 10 multiple-choice questions and one essay question. The multiple-choice section is closed book and counts for 3/8ths of your grade for this exam. You have 18 minutes to complete that section, or an average of 1.8 minutes per question. Indicate the one best answer to each multiple-choice question by filling in your Scantron sheet as directed. Even if you finish the multiple-choice questions early, you may not start on the essay section until directed to do so.

The essay section is partial open book. You may use your casebook, any material that I or the academic fellow handed out for the course, and any notes that you or your study group prepared. You may not use other materials, such as nutshells or commercial outlines. The essay section counts for 5/8ths of your grade for this exam and you have 30 minutes to complete it. You may not begin working on the essay section until directed to do so. Before you begin writing any essay answer you should read the question carefully and note both which issues you need to address and the form in which you should address them. Good organization and writing may improve your grade.

If using a bluebook, write on only one side of each page, on every other line. If you use more than one bluebook, number them so that I can follow their intended sequence. Please write clearly. I cannot grade what I cannot understand.

Unless otherwise indicated, all events described below take place in a generic common law jurisdiction that has enacted the typical statutes. If you think it necessary to assume an unstated fact in order to answer an essay question you may do so, but you should clearly indicate that you are making an assumption and briefly explain why you consider it reasonable to do so. If you have any procedural questions about taking this exam, please contact the Registrar.

Do not turn the page until told to begin the exam.

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### **Multiple Choice Questions**

3/8ths of exam's total grade  
(maximum time: 18 minutes, or 1.8 minutes/question)

[Redacted]

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### **Essay Question**

5/8ths of exam's total grade  
(maximum time: 30 minutes)

Prior to 1980, Mr. Ohner owned Goldacre, a parcel of land in a rural setting. It was undeveloped but for a shack that had stood vacant since the late 1800s.

In 1980, Ohner sold Goldacre to Ms. Green for \$100,000, giving a general warranty deed that she recorded. Green did not move onto or develop the property. To the contrary, that same year she donated to Nature Safe (a tax exempt corporation) a conservation easement ensuring that no new structures would be built on Goldacre. Neither party recorded Nature Safe's interest.

In 2011, Green died intestate. Her sole heir, Mr. Fast, took title to Goldacre. He knew about the conservation easement, but nonetheless immediately recorded his interest as fee simple and sold the property to Mr. Digger, who paid \$400,000 and got a general warranty deed. Fast sold the shack "as is" (to quote the sales contract). He did not mention the easement to Digger, who recorded a fee simple interest.

When Digger tried to use the shack to store surveying equipment, he fell through a rotten floorboard and broke his tibia. Undaunted, he set to work building a house on the property. The ground being solid granite, and Digger being determined to have a wine cellar, he began dynamiting every day, on an hourly basis. The noise disturbed Digger's neighbor, Ms. Equine, as well as the horses stabled on her property. Equine specialized in giving racehorses a place to recuperate after operations. Some of the horses, spooked by the blasting, reinjured their wounds.

Digger brought suit against Fast alleging that the shack was not fit for habitation. Nature Safe brought suit against Digger claiming breach of the conservation easement. Equine brought suit against Digger, complaining of the construction noise.

Goldacre lies in a race-notice jurisdiction. The statute of limitations for a breach of a present covenant is five years. The marketable title act reaches back 40 years. All transactions were by signed and written agreements satisfactory under the statute of frauds. Using good prose, describe the rights and remedies of the parties under the law of property.