



NATIONAL COMMITTEE ON ACCREDITATION

SAMPLE EXAMINATION

PROPERTY LAW

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SAMPLE Property Law Exam

This is a three hour open book exam. There are 5 pages in this questionnaire. Please complete your answers in legible English. Unless otherwise noted, assume throughout that the law of the jurisdiction applies common law rules in relation to future interests and perpetuities, and permits adverse possession (in relation to both private and Crown land) and prescriptive easements. Answers must be included in the examination booklets. Notations on the examination questionnaire will not be graded.



PART A: Multiple Choice (15%; 20 minutes) (You do not need to include reasons for your answer in this multiple choice section).

1. The following transactions occurred with respect to Blackacre: In 1990, Olivia, the owner, conveyed her interest in fee simple to “my brothers Robert and Bruce, and their heirs, as joint tenants.” In 1997, Robert dies, devising his interest to his only child, “Charles, for life, and then to Charles’s grandson Sam, for life, and then to Cindy’s children and their heirs.” In 2000, Bruce died, devising his interest “to my friend Jason and his heirs.” In 2002, Jason conveyed his interest “to Peter and his heirs.” Peter has now contracted to convey title to all of Blackacre to Maxime. Can Peter do so?

- A. Yes, but only if Charles, Sam and Cindy’s only child Sandy will agree to and join in the conveyance.
- B. No, regardless of who joins in the conveyance, because Cindy may have additional children whose interests will prevail.
- C. No, unless Olivia agrees to surrender her possibility of reverter.
- D. Yes, but only if a court orders partition of Blackacre.
- E. Yes, without the participation of any other person in the conveyance.

2. Testator devised his farm “to my son, Stan, for life, then equally to Maria’s children alive on Stan’s death and their heirs.” Maria, a widow, had three unmarried, adult children. Stan is still alive. In an action to construe a will, the court will determine that the remainder to the three adult children is:

- A. a legal executory interest.
- B. contingent.
- C. vested, but their respective share in the farm may be reduced if Maria has other children.
- D. vested, subject to complete defeasance.
- E. void.



3. Alice conveyed Bramble Estate in 1965 “to Belinda and her heirs, provided that the premises are used as a residence, and if they are not, then to Charles and his heirs”. As a consequence of the conveyance, which of the following is true:

- A. Belinda has a fee simple absolute, because Charles’s future interest violates the common law remainder rules and the condition on the qualified fee violates the rule against perpetuities.
- B. Belinda has nothing because the condition creating the qualified fee is invalid, causing the entire grant to fail.
- C. Alice has an executory interest, if the future interest to Charles is invalid.
- D. Alice has a right of re-entry because the future interest to Charles violates the common law remainder rules.
- E. Charles has a right of re-entry, because one takes a wait and see approach.

PART B: Hypothetical (85%, 2 hours 40 minutes)

Read this fact scenario carefully and answer the questions below.

It’s a little known fact that the recent animated feature film, *The Incredibles*, was produced in Toronto. There, the actors lending their voices to the project assembled during final production of the film. Greg Belson, the voice of “Mr. Incredible”, was beguiled by Toronto’s repeated assertions that it was, in fact, a “world class city”. He decided to acquire a small plot of land (called Bluffacre) near the Don River valley, where he intended to build a museum celebrating great voice-overs in motion picture history.

Belson lobbied the city of Toronto, the owner of all of the land in the valley, ultimately securing a conveyance in fee simple in 2005 that was subsequently properly registered. In its material parts, the conveyance read:

The City of Toronto (Grantor) conveys Bluffacre to Greg Belson (Grantee) in fee simple. Grantee covenants with the Grantor, its successors and assigns, that, as a covenant running with the land, he will not build on the said land a structure more than ten stories in elevation. Grantee also extends (and will observe) an easement right to lateral light to all adjoining plots of land owned by the Grantor.

Belson's parcel of land was surrounded by municipal land and located on a ridge constituting the banks of the Don River. Further up the valley ridge from Belson was a second, vacant parcel of land, also owned by the City of Toronto, called Gravelacre. Lacking any structures, this land was used by the city as a parking lot. For some time prior to its sale, Bluffacre had been accessed by municipal workers by traversing this parking lot and then passing along the open field of Bluffacre itself. Over time, this passage across Bluffacre had altered, with the access and egress point to and from the parking lot varying.

After purchasing Bluffacre, Belson was distracted from his museum project by his acting commitments. Time passed. In 2007, the City of Toronto sold Gravelacre to Quality Foods, a large food retailer. Quality constructed on Gravelacre a large grocery store. The new facility proved popular and Quality soon realized that it has miscalculated in failing to provide adequate parking space. In 2009, it paved over the remaining part of Gravelacre and a small, adjoining portion of Bluffacre to create new parking. Because these parking spaces were fairly close to the bluff overlooking the Don, Quality placed a fence around the portion of the parking lot on Bluffacre.

While all this was going on, Belson's fellow voice over actors in *The Incredibles* Polly Chaser (the voice of "Elastigirl") and Daniel S. Donaldson (the voice of "Frozone") decided that they too would settle in Toronto. Having struck up a romantic relationship after their work together on the film, the two also successfully persuaded the City of Toronto to sell them a plot of river along the Don River, adjoining Bluffacre. The City sold the couple its fee simple interest in the land. Because Donaldson was away on business at the time, Chaser took title to this land, Nextacre, in 2006. Donaldson shared, however, the purchase price and, having enrolled in lessons at the local Home Depot, completed most of the construction of the house that was soon built on the land. Donaldson and Chaser accessed Nextacre by cutting across Quality's parking lot on Gravelacre.

In 2020, Belson decided that the time was ripe to revisit his museum project. He arrived in Toronto to begin construction of the new "Museum of the Voice-Over Arts". The museum was to be an architecturally complex structure, requiring substantial landscaping and levelling of the land on Bluffacre. Upon arriving at the Don River valley, Belson realized that access to Bluffacre was now blocked both by the massive Quality Foods store and also the fence around the parking lot. Grumbling, but ultimately shrugging his shoulders in resignation, he revised his construction plans, accessing Bluffacre by carving a new road from a city street further up the valley. This new road built by Belson – Museum Street – passed over municipal land, and its existence was not authorized by the city.

The construction of the museum took six years. Just as it was being completed, Quality Foods noticed cracking in the foundation of its store. Also, portions of its parking lot, including the part on Bluffacre, began to subside, making the parking lot unusable.

Soon after, a heavy storm swept through Toronto. The storm washed away a substantial part of the Don River bank, bringing the river perilously close to the new museum on Bluffacre. To preserve his new building from damage, Belson backfilled the river up to the original pre-storm position of the river bank, using fill produced from shredded automobile tires. On this artificial land, he built a new parking lot, accessed from the road he had built across municipal land. Realizing that this parking lot was not large enough for his purposes, he built an extension, again by backfilling the Don. This second backfill, and the extension to the parking lot, went as far as the middle of the Don River.

As a direct result of the second round of backfilling, the water flow pattern of the Don River was changed. After each rainfall, more rain moved quickly into the river, flowing across the new parking lot (rather than being soaked into the ground). This fact, coupled with the narrower river at Bluffacre, caused the rate and quantity of the Don's flow to accelerate. Just downstream, the bank of Nextacre collapsed, causing substantial damage to the house found on that land. The water in the Don was also stained black by the backfill used by Belson.

Chaser and Donaldson were upset by these turn of events. The flooding compounded their concerns with the new Museum of the Voice-Over Arts. While in principle they were quite excited by the concept, they were dismayed when the museum featured Greg Belson quite prominently, but gave only secondary recognition to other actors. Moreover, they were quite put out that the museum towered twelve stories above Bluffacre, blocking the morning sun from the windows of their house on Nextacre. Their concerns were augmented when, in a splashy opening to the museum, Belson started up a rather ill-thought out, giant fountain, drawing water from a well drilled into Bluffacre. The cascading fountain required almost 10,000 litres of water a day, drying out the subsoil on both Bluffacre and Nextacre substantially. The house of Nextacre subsided significantly within a month, causing substantial damage.

Meanwhile, Belson's museum opening was broadcast to Torontonians via a large blimp, passing up and down the Don River valley, including over Nextacre. The blimp's flashing billboard beamed light at all hours through the skylights of the house on Nextacre.

These events created enormous stress in Chaser and Donaldson's relationship. Eventually, a dispute as to how to respond to Belson's provocations prompted Donaldson to move out.

Questions (Make sure to label your answers with the appropriate question number, e.g. A.1. Answer these questions fully, identifying the legal issues, legal principles, key facts and any facts you are assuming to arrive at plausible outcomes.):

- A.1. Quality sues Belson for the cracking in its foundation and parking lot. (17%)
- A.2. Belson countersues Quality for paving a portion of Bluffacre and for blocking access to Bluffacre. (17%)

- B. The Ontario government sues Belson for the backfilling of the Don River. (10%)

- C. Chaser sues Belson for the water and subsidence damage to Nextacre, for the black staining of the water, for blocking the morning light and for the flashing blimp. (29%)

- D. Donaldson sues Chaser for ownership of Nextacre. (12%)

