CONVEYANCING
SPRING 2006

Final Examination

Professors Malaguti & Morris

Instructions

This exam consists of four (4) essay questions of equal weight. The suggested time for each question is 45 minutes. You have three (3) hours to complete the examination.

Please take three (3) blue books. Please write “Scrap” on one of the blue books. Please write “One and Two” on another blue book, and please write “Three and Four” on the final blue book. Please write your social security number on all three blue books as well as on this exam booklet. Please do not identify yourself in any way other than by social security number.

This is a closed-book examination; other than writing implements, you are not to have any materials on your table or at your feet. Please place all books, knapsacks, briefcases, etc. at the side or front of the room.

Please do not use your own scrap paper. You may use the blue book labeled “Scrap” as scrap paper. Please turn in your scrap blue book with your exam blue book and this exam booklet. I will not accept any blue books after you have turned in your exam materials -- no exceptions.

The page limit for each answer is four (4) single-spaced bluebook pages. The front side of a sheet in a blue book is one page, and the back side of the second sheet is an additional page. In other words, if you write on both the front and back of a blue book sheet, that constitutes two pages. Questions One and Two are to go in one blue book, and questions Three and Four are to go into a separate book; do not put more than two questions into a single blue book.

I will tell you when there are 15 minutes left, at which point no one may leave the room. I will also warn you when there are 5 minutes left and 1 minute left. When I call time, you are to bring up your exam and blue books immediately.

GOOD LUCK!
**Question One**

**Suggested Time: 45 Minutes**

In 2001, Stanley sold ten acres of land, known as Williamsacre, in Desire, Massachusetts, to Stella for $267,000. Stella did not record the deed and never occupied the property. In 2002, Stanley made a gift of Williamsacre to Blanch to celebrate her victory in the Mardi Gras Queen Contest. Blanch, who did not know about the prior deed to Stella, immediately recorded the deed. In 2004, Blanch granted a mortgage to the Street Car National Bank in the amount of $150,000. The Street Car National Bank, which had no actual knowledge of the conveyance to Stella, immediately recorded its mortgage. In 2005, Stella recorded her deed. In 2006, Blanch fell several months behind on her mortgage payments and the Street Car National Bank commenced foreclosure proceedings on Williamsacre. Massachusetts has a recording statute which states, “no conveyance or mortgage of real property shall be good as against a subsequent purchaser who first records, pays substantial value and takes without notice, unless the same be recorded.” Considering these facts, please give full explanations (applying law to fact) for the following two questions:

A. In an action between Stella and Blanch, in which each claims ownership of Williamsacre, who will prevail?

B. In an action between Stella and the Street Car National Bank, in which Stella claims that the bank cannot foreclose as against her, who will prevail?
Question Two

Suggested Time: 45 Minutes

In 1999, Yossarian conveyed Catch-22-Acre to Dunbar for $250,000. Yossarian gave a general warranty deed with the covenant of quiet enjoyment and covenant against encumbrances. In 2000, Dunbar placed an easement on Catch-22-Acre, in favor of Scheisskopf, which allowed him to use all of Catch-22-Acre as an airfield. Scheisskopf promptly recorded the easement. In 2001, Dunbar conveyed Catch-22-Acre to Orr for $300,000. Dunbar gave Orr a special warranty deed with the covenant of quiet enjoyment and covenant against encumbrances. Orr did not know about Scheisskopf’s easement. In 2003, Orr conveyed Catch-22-Acre to Major Major for $350,000. Orr gave Major Major a quitclaim deed. Major Major did not know about Scheisskopf’s easement. After Orr conveyed to Major Major, Scheisskopf began to use the easement. Now, in 2006, Major Major wants to sue whoever he can for breach of the covenant against quiet enjoyment and the covenant against encumbrances. Assume that the easement for the airfield is so extensive that the value of Catch-22-Acre is rendered worthless. Considering these facts, please give full explanations (applying law to fact) for the following questions:

A. What will be the result if Major Major sues Orr in a “consideration paid” jurisdiction? What about a “consideration received” jurisdiction?

B. What will be the result if Major Major sues Dunbar in a “consideration paid” jurisdiction? What about a “consideration received” jurisdiction?

C. What will be the result if Major Major sues Yossarian in a “consideration paid” jurisdiction? What about a “consideration received” jurisdiction?
**Question Three**

**Suggested Time: 45 Minutes**

Your clients, Jay Gatsby and Daisy Buchanan, real estate developers, own a 100 acre parcel of land named West Egg which they intend to develop into a residential subdivision. Jay and Daisy figure they can build 50 large houses as well as streets, a central park with a park and community center. They have expressed to you the following goals they desire to achieve:

1. They want all the houses to be maintained strictly as residences.

2. They would like the houses to be slightly different from each other, yet maintain a style and size that will ensure that the market value of all remaining unsold lots remains as high as possible. Specifically, they want each house to be at least 4,000 square feet in size. They want the ability to review and veto unacceptable plans for each proposed house.

3. They want each purchaser to pay a yearly fee to maintain the park, community center, roads, drainage systems and other capital improvements in the subdivision.

Please render advice to Jay and Daisy regarding their goals. Please make suggestions about the legal devices they can use to accomplish their goals. Please discuss the benefits and detriments of the legal devices.
Question Four

Suggested Time: 45 Minutes

Caulfield entered into a written purchase and sale agreement with Stradlater whereby Caulfield contracted to sell Pency, a parcel of land with a home on it in Massachusetts, to Stradlater for $394,000. Caulfield was living at Pency at the time the purchase and sale agreement was signed. The purchase and sale agreement, which was silent as to the quality of title that Caulfield was to deliver, set a closing date of August 8, 2005. Two weeks before the closing date, Stradlater received the title report on Pency from his title examiner. The report showed that Ackley conveyed Pency to Gallagher by quitclaim deed in 1975, and that Spencer conveyed Pency to Caulfield in 1987. No records in the Registry of Deeds indicate how Spencer obtained his title; there is no recorded deed from Gallagher and Spencer. Furthermore, the Registry of Probate across the hall from the Registry of Deeds does not reveal that any probate was taken out on Gallagher. By all appearances, Gallagher is still alive. Stradlater expressed his concern about this to Caulfield, who expressed no knowledge about the matter, but said he would look into it. Stradlater did not hear back from Caulfield prior to the closing.

On August 8, 2005, both Caulfield and Stradlater appeared at the place designated for the closing. Stradlater asked Caulfield if he had any more information about the title, and Caulfield said that he did not; he had no doubt in his own mind that he owned Pency and had the right to convey a proper title. Stradlater refused to give Caulfield any of the purchase price and told Caulfield that he was backing out of the purchase and sale agreement. Caulfield has since sued Stradlater for specific performance.

Please discuss the rights, duties, obligations and liabilities of the Caulfield and Stradlater.

END OF EXAM