

**CONVEYANCING
SPRING 2007**

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 same sheet is an additional page. In other words, writing on both the front and back of a blue book sheet counts for 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

Olsen died testate in 1995 and left Blackacre, a house and several acres of land located in Town, to his two sons, Al and Bob “for their joint lives and then to the survivor.” Al resided at Blackacre for the past ten years and has paid the taxes during this period. Bob conveyed his interest in Blackacre to Charles in 1999.

Al listed Blackacre for sale with a licensed Broker for \$1 million dollars. Broker negotiated with Paul to buy Blackacre. On November 1, 2006, Al entered into a written contract with Paul to sell him Blackacre for \$900,000, and Paul gave Al a \$200,000 deposit. The closing was scheduled for February 2, 2007. Al also agreed to pay Broker a 5% commission for negotiating the sale.

Al died on December 10, 2006 and left a will giving his realty interests to his friend Jim and his personal property to Al’s three surviving children.

On December 15, 2006 Paul notified Fred, the executor of Al’s estate, that he would not buy Blackacre and demanded a refund of the \$200,000 deposit. Fred has refused Paul’s demand to return the deposit. Broker has demanded that Fred pay him the 5% commission.

What are the rights of the parties?

Question Two Is On The Next Page

Question Two

The following events happened in the order stated in a race-notice jurisdiction:

1. Appenzeller, the fee simple owner of Dogacre, sold it to Boxer for \$437,000. Boxer did not immediately record the warranty deed he received from Appenzeller.
2. Appenzeller granted a mortgage on Dogacre to the Collie National Bank ("CNB"). CNB immediately recorded the mortgage.
3. Appenzeller conveyed Dogacre to his nephew, Dachshund, as a gift (for no consideration). Dachshund immediately recorded the quitclaim deed he received from Appenzeller.
4. Appenzeller sold Dogacre to Labrador for \$431,000. Labrador immediately recorded his quitclaim deed from Appenzeller.
5. Boxer recorded his deed from Appenzeller.

Please fully identify and discuss all interests each party has in Dogacre after the five events stated above.

Question Three Is On The Next Page

Question Three

In 1998 A conveyed Blackacre to B for \$600,000. A gave a special warranty deed with the covenant of quiet enjoyment and covenant against encumbrances. In 1999 B conveyed Blackacre to C for \$625,000. B gave a general warranty deed with the covenant of quiet enjoyment and covenant against encumbrances. In 2000 C conveyed to D for \$650,000. C gave a quitclaim deed with no covenants. In 1995 A had placed an easement on the property in favor of E. E recorded the easement immediately after it was created. B, C and D failed to do title searches, and thus did not find the easement. After C conveyed to D, E began to use the easement. D now wants to sue someone for breach of the covenant against quiet enjoyment and the covenant against encumbrances. Assume that the easement is so extensive that the value of Blackacre is rendered worthless.

Question Four Is On The Next Page

Question Four

Abraham owned in fee simple absolute Blackacre, a 20 acre parcel of wooded land with a large steel frame building used as a dealership to sell heavy excavation equipment. In 1991, Abraham signed a promissory note and gave a mortgage on Blackacre to the Thirty-Seventh National Bank in the amount of \$450,000. There was no “due on sale” clause in either the mortgage or promissory note.

In 1994, Abraham signed another promissory note and gave another mortgage on Blackacre, this time to the Second Street Bank, in the amount of \$125,000. There was no “due on sale” clause in either the mortgage or promissory note.

In 1996, Abraham leased Blackacre to Tolland for a term of 30 years. In the lease was a provision that “the lessee hereby agrees that this lease agreement shall be subordinate to any and all mortgages the landlord grants on Blackacre to institutional lenders.”

In 2001, Abraham sold Blackacre to Barbara “subject to the Tolland lease and the mortgages to the Thirty-Seventh National Bank and Second Street Bank, which the grantee assumes and agrees to pay.” In order to finance the acquisition of Blackacre, Barbara signed a promissory note and gave a mortgage to the Twelfth Bank of Nighttime in the amount of \$215,000. As the same time, the Twelfth Bank of Nighttime gave Barbara an equity credit line of \$50,000, and Barbara gave the Twelfth Bank of Nighttime a mortgage to secure the credit line. When the Twelfth Bank of Nighttime’s attorney recorded his client’s mortgage and equity credit line mortgage, he accidentally recorded the equity credit line first.

Immediately after Barbara closed on Blackacre, the Twelfth Bank of Nighttime sold “the paper” on the equity credit line to the First National Bank of Justice. By late 2004 Barbara was in deep financial difficulty and unable to pay any of her mortgages.

Please discuss the rights, duties and liabilities of the parties.

END OF EXAM