

PROPERTY FINAL EXAM 2006
ANSWERS TO PART ONE

1. Trespasser
2. Trespass is intentionally going on someone else's land without permission. Elaine: (1) intended to place the driveway where she placed it; (2) didn't own the 35 sq. ft. strip; and (3) didn't have permission to place the driveway where it was or use it.
3.
 - Open & Notorious
 - Hostile
 - Exclusive
 - Actual
 - Continuous
4.
 - A. Open & Notorious: Holding yourself out to the community as the actual owner of the land.
 - B. Hostile: Trespassing or otherwise acting adversely to the owner's property rights.
 - C. Exclusive: No use by the owner.
 - D. Actual: Physical presence. You only get what you possess.
 - E. Continuous: Meet all other criteria for the statutory period (20 years).
5.
 - A. Open & Notorious: Satisfied. Installing and using a driveway is an act that actual owners of real estate customarily do.
 - B. Hostile: Satisfied. Elaine was a trespasser by building and using the driveway. Even the facts say it is an encroachment.
 - C. Exclusive: Satisfied. No facts suggest that the Marmos used the driveway.
 - D. Actual: Satisfied. Elaine's driveway, and her parking of cars on it, represent physical use of the property.
 - E. Continuous: Satisfied. All of the elements were met between 1962 and 2006: 44 years.
6.
 - A. Open & Notorious: Satisfied. Elaine's following uses are those which property owners customarily employ: children playing, swing set, parked cars, garden.
 - B. Hostile: Tough one to prove. There is evidence that there was permission for

Haggas & Wanda: Joint tenancy as between them. Although grantor expressed TBE, they couldn't get one because they weren't legally married.

TC as between the couples because the grant expressly states it.

18. Nothing

19. Owners: Hermes, Winifred, Haggas & Kevlar

Concurrent Estates: Hermes: TBE w/ Winifred, TC w/Haggas & Kevlar
Winifred: TBE w/ Hermes, TC w/ Haggas & Kevlar
Haggas: TC with other three
Kevlar: TC with other three

Percentage Interest: Hermes: $\frac{1}{4}$
Winifred: $\frac{1}{4}$
Haggas: $\frac{1}{4}$
Kevlar: $\frac{1}{4}$

20. Owners: Stoddard, Winifred, Haggas, Kevlar

Concurrent Estates: All have tenancies in common

Percentage Interests: All have $\frac{1}{4}$

21. Owners: Stoddard, Winifred, Haggas, Kevlar

Concurrent Estates: All have tenancies in common

Percentage Interests: All have $\frac{1}{4}$

22. Oblio: Nothing

Angina: Life Estate

Bubba: Vested Remainder Subject to Complete Divestment

Consolata: Executory Interest

23. Oblio: Nothing

Angina: Life Estate

Bubba: Vested Remainder Subject to Complete Divestment

Consolata: Executory Interest

24. Oblio: Nothing

Bubba: Fee Simple Subject to an Executory Limitation

Consolata: Executory Interest

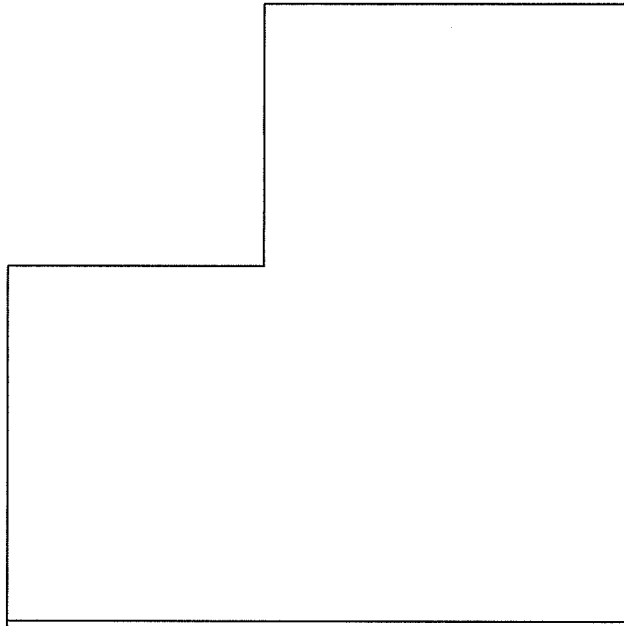
25. BUBBA

parking the cars, and children playing. There may well have been a general permission given for gardening, etc, when Marmo said “do anything you want on the lot.”

- C. Exclusive: Not satisfied. The Marmos used the grassy area by parking cars on it.
 - D. Actual: Satisfied. The following uses occurred on the property: children playing, swing sets, park cars, gardens.
 - E. Continuous: C and possibly B not satisfied for who statutory period.
7. Person who meets all the elements of A. P. can get more than he actually possessed if he has a deed showing greater possession that was defective, and if he took the deed with a good faith belief that it was valid.
 8. NO
 9. There is no evidence suggesting that Elaine got a deed, defective or otherwise, to the Marmo lot.
 10. Sometimes “continuous” is satisfied even when you don’t use the property year round. You can use it during the appropriate season for that use and still make out an A.P. E.g., use beach property only during the summer months.
 11. YES
 12. In 1982, when she moved to Newton, Elaine stopped using the property year round. Then, she continued to use it, but only during the summer months.
 13. YES
 14. Quality of Title: Elaine gets a new title, not a continuation of the title held by the Marmos. The bank therefore lacks privity of title with Elaine and cannot foreclose the new title.
 15. A. Life Estate
B. None
 16. Quantity of Title: The adverse possessor gets the title of the person who could have evicted him. The only person who could have evicted Elaine were those with the right to possession. This was the Marmos and not their children.
 17. Hermes & Winifred: TBE as between them. The are legally married and the grant expresses TBE.

26. Bubba owns a fee simple. Therefore, he has the right to commit waste.

27.



28. A. Easement by Implication

B. Easement by Necessity

29. Easement by Implication:

- i. Common Ownership
- ii. Quasi Easement
- iii. Quasi Dominant Estate
- iv. Quasi Servient Estate
- v. Reasonable” Necessity

30. Easement by Necessity:

- vi. Common Ownership
- vii. “Absolute” or “Strict” Necessity

31. Whether the surrounding owners’ land was previously held in common ownership with your land.

32. Open & Notorious
Actual
Hostile
Continuous

47.	Martin:	YES	Privity of Contract
	Arnold:	NO	No P.K., No Third-Party Beneficiary
	Barbara:	YES	Third-Party Beneficiary
	Carrie:	YES	Third-Party Beneficiary

48. Pure Notice

49. Brian – Appleby’s deed is outside the chain of title.

50. Nirvana National Bank – Brian has constructive notice of the mortgage. He can find it in a title search.