

Anonymous Grading Number: \_\_\_\_\_

American University Washington College of Law  
Spring 2025 Final Examination  
LAW-518-003 Property Law

Professor Name: **Charles Duan**

Date: **May 2, 2025**

## Instruction Page

1. The length of the examination: 4 hours
2. This exam consists of 6 pages including the instruction sheet(s). Please be sure your exam is complete.
3. This exam is open book. Students are permitted to access hardcopy materials and materials stored on their computer hard drives, but are not permitted to access the internet.
4. Multiple Choice:
  - You must respond using the [multiple-choice feature of Exam4's software](#).
  - Only use Scantron paper if your laptop stops working.
5. Additional instructions: See the next page.

## WCL Exam Policies

1. You must use your Spring 2025 Exam Number / Anonymous Grading Number (AGN). Write it on the blue book, exam questions, and any scrap paper. **Do not use your name, student ID number, or social security number.** Use the guide posted via the following link to find your Exam Number/Anonymous Grading Number (AGN) for the current term: (<https://shorturl.at/rZMdQ>).  
**Do not** contact your professor about the exam until after grades have been released.
2. No corrections will be made once the exam is distributed. If there is a typo or ambiguity in a question, state your assumption and answer accordingly. **Please note: Proctors are not allowed to answer questions about the examination.**
3. All materials, including the **questions, handwritten answers (if applicable), and scratch materials**, must be placed inside the exam envelope and returned to the proctor at the end of the exam.
4. Students are permitted to use one electronic device (laptop or compatible tablet). The use of additional electronic devices (cell phones, mp3 players, smart watches, tablets, etc.) is prohibited during the exam.
5. You are reminded that the WCL Honor Code applies to this examination.

## General Instructions

The following are general instructions for writing this examination:

**Word and Time Limits.** The times given for each problem are just suggestions; you may allocate time on this exam as you wish. The word limits are mandatory. They are also very generous, and an excellent answer would contain far fewer words. In Exam4, remember to click “Show Document Statistics” and “Insert Answer Separator” so that you can see word counts for individual questions.

**Address All Issues.** Even if you think a particular issue is dispositive, **do not stop your analysis.** For example, even if you think a patent is invalid, you should continue to consider whether it is infringed.

**Answer Quality.** Credit on this exam will be given for clarity, organization, and conciseness in writing. You are highly encouraged to use font styles and paragraph breaks to make your answers as clear and readable as possible.

**Duplicative Analyses.** If a certain legal analysis is useful in multiple places within your exam answer, you do not need to repeat the text of the analysis, but may write it once and refer to it in other parts of your answer.

**Jurisdiction.** Unless otherwise stated, this exam is **non-jurisdictional**, meaning that your analysis should assume that the facts might take place in any state in the United States or the District of Columbia. Where the course covered legal rules in different jurisdictions that are incompatible with each other and the exam question does not indicate which is applicable, you should note the situation, and then choose one of the rules to apply. However, do not apply a rule that was clearly described as a minority or disfavored approach in the textbook.

**All Interests Available.** All property interests are potentially available, even if they could not both be available in one jurisdiction. For example, you should consider both community property and tenancy by the entirety as available interests even though a state would provide for only one or the other.

**Doctrinal Scope.** Only rely on doctrines, cases, and other sources of law discussed in the textbook or in class. You will not receive credit for citing or analyzing doctrines beyond the scope of this course. You may (and should) use general principles of law, including those you learned in other courses, as part of your analyses.

**Technical Facts.** You must accept as true any technical fact stated in this exam, even if that fact is not true in reality.

**Statutes of Limitations.** Where a legal rule refers to a statutory time period or statute of limitations (e.g., adverse possession), that time period is 20 years unless otherwise stated.

## Essays

(15 minutes to read)

“Wait, no, wait, no, wait, no, wait, no—Stop, no, stop, no, stop, no, stop, no—”

CRASH!

“Coming<sup>1</sup> \_\_\_\_\_!” comes the voice from inside the wreckage. From outside, Alice thinks, it does look cage-like, with the front door collapsed and the barred, half-crushed windows the only way out.

“Here, I’ll help,” Alice says, peeling back the twisted steel bars from the window frames. “Are you doing okay?”

“I can get out myself, thank you very much!” Bob retorts. “And \_\_\_\_\_!” Bob is not fine, considering his house is half-exploded.

“Look, I’m really sorry about all this,” says Alice. She looks down at her ringing phone. “I gotta—\_\_\_\_\_ at the fire station in a minute to give them a report, but I’ll be back real soon to help clean up, okay?”

“Oh you’ll be back real soon. You’ll be back, seeing me in court. Because I want you to pay for this. *Because* \_\_\_\_\_.”

\* \* \*

It \_\_\_\_\_, \_\_\_\_\_? A bag of Hershey’s Kisses, to be specific. It \_\_\_\_\_, \_\_\_\_\_, Alice fretted on the way to the fire station, as she recalled the events earlier in the day.

That morning, Alice had gone to visit her friend Charlie, a medical resident just coming off of two consecutive 24-hour shifts. Alice arrived first at Charlie’s house, and Charlie staggered through the door a few minutes later.

“Literally any second *now*, \_\_\_\_\_, \_\_\_\_\_ need you to help me with something,” Charlie said to Alice. “Can you take this bag of Hershey’s Kisses to your house and hang onto it? If I leave them here, my kids are going

<sup>1</sup>When this exam was given, the blanks contained the lyrics to the song *Mr. Brightside*. They have been omitted here, and this explanatory footnote has been added.

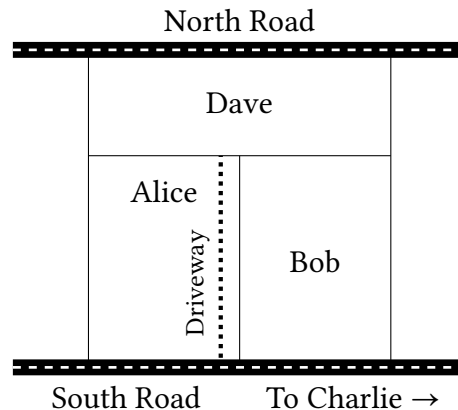


Figure 1: Map of Evewood.

to eat them. And I barely have enough to fill the eggs for the Kindergarten Easter egg hunt next week.”

“Umm—sure?” said Alice as she took the bag from Charlie. “Can I use a few?” Alice had meant to visit the grocery store to buy a bag for her famous Grilled Kisses Pies, but if she could take a few, that would save her an extra trip and a couple of dollars.

“Whatever . . . whatever . . . I need them for . . .” Charlie’s voice trailed off as he slumped over in the hallway, asleep. Alice dragged Charlie over to the couch.

As *she* \_\_\_\_\_ napping, Alice remembered that her neighbor Dave was in the neighborhood. Perhaps she could hitch a ride from Dave.

\* \* \*

Five years ago, Dave purchased three acres of land with his wife Eve as tenants by the entirety. Two years later, a fire broke out, destroying the house and killing Eve. In mourning and no longer needing so much empty space, Dave divided up the land into three lots. Each lot was bound by restrictive covenants, validly formed under *Neponsit v. Emigrant* (the Restatement (Third) of Property (Servitudes) is not in effect), requiring each of the three lots to obey the governing documents and bylaws of a homeowners’

ers' association named Evewood.

Dave retained ownership of the northern acre and sold the other lots three years ago. Alice purchased the southwestern lot. Bob purchased the southeastern lot, but did not have enough money to buy the lot outright, so Dave agreed to sell the lot with a deed stating "to Bob for life."

Ever fearful of fire, Dave as inaugural president of the Evewood homeowners' association swiftly adopted a bylaw prohibiting open flames on any property within the association. *Having* — — — — —, lighting a candle, even striking a match was a violation of the bylaws and punishable with severe fines.

\* \* \*

Returning to the present: Alice finds Dave after leaving Charlie's house, and Dave offers Alice a ride home. They drive along South Road and up Alice's driveway. Alice has long been annoyed that Dave keeps using Alice's driveway to reach Dave's house—the driveway is on Alice's land, after all, and Dave could also take North Road to his house. But Dave has been using that driveway since before Evewood was even created, and given Dave's power on the homeowners' association board, Alice has kept her gripes to herself.

No matter, Alice thinks to herself, I've got pies to make. She lights up her propane grill, pours out half the bag of Hershey's Kisses, and starts making her Grilled Kisses Pies.

Two hours later, Alice is admiring the perfect grill marks *and* — — — — — of the chocolatey aroma, when Charlie walks through Alice's door, refreshed from his nap.

"Hey I thought I'd start stuffing Easter eggs since I'm—what did you do with my Kisses!?" Charlie exclaims.

"You said I could use them before I left! I put them into my pies!"

"There's barely any Kisses left! What about the kindergarteners—*now* — — — — — without their Easter treats? Well, I'm giving them the pies now! Hand them over!"

"Those pies took hours to make! *And* — — — — — from the thought of grubby kids putting their hands all over them!"

Charlie lunges for the pies. Alice jumps to block him, knocking over the still-on propane grill. The tank explodes and flies out the window, smashing into and obliterating Alice's driveway. And unfortunately for Bob, there has been a crack in his house's foundation for about a year, and Bob hasn't had time to fix it yet. The shockwave from the explosion ruptures the crack.

"Wait, no, wait, no, wait, no, wait, no—Stop, no, stop, no, stop, no, stop, no—" says Alice—  
CRASH! goes Bob's house.

At least Alice's Grilled Kisses Pies won first prize at the county fair that week. There's a bright side to everything.

## Question 1

(40 minutes, 1,800 words, 20% of grade)

Identify all **real property interests** that have been potentially violated in view of the events above. You should name the property interest, identify who owns it, justify their ownership of that interest, and explain what property right has been violated (that is, what duty to the property interest owner has been breached).

**Do not analyze the causes of action or resulting remedies.**<sup>2</sup> Just name the relevant right/duty (trespass, takings, etc.) and the facts that give rise to the potential violation.

## Question 2

(40 minutes, 1,800 words, 20% of grade)

The county fair awards a \$3,000 prize to the owner of the winning Grilled Kisses Pies. Who deserves some or all of the money? Provide your reasoning.

**ESSAYS CONTINUE ON THE NEXT PAGE**

<sup>2</sup>This is because they are complicated, involving contributory liability questions better suited to a torts exam.

### Question 3

(25 minutes, 1,200 words, 10% of grade)

The italicized words in the above facts are the first few lyrics to *Mr. Brightside*, a 2003 hit song by The Killers. The lyrics depict lead singer Brandon Flowers's discovery that his girlfriend was cheating on him.

Say that the text of this exam is publicly posted online, as printed here with the lyrics.<sup>3</sup> Assume that the lyrics are original and properly copyrighted, and that the exam is substantially similar to the lyrics. **Analyze whether the posted exam qualifies as fair use under the first factor only.**

In answering this question, use the texts provided below. You do not need to apply any other legal doctrines, although your general knowledge of property law and theory will of course be helpful to you.

## Legal Appendix

### 17 U.S.C. § 107

... [T]he fair use of a copyrighted work . . . , for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research, is not an infringement of copyright. In determining whether the use made of a work in any particular case is a fair use the factors to be considered shall include—

(1) the purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes . . . .

### *Campbell v. Acuff-Rose Music, Inc.*

The first factor in a fair use enquiry is “the purpose and character of the use, including whether such use is of a commercial nature

or is for nonprofit educational purposes.” The central purpose of this investigation is to see whether the new work merely supersedes the objects of the original creation, or instead adds something new, with a further purpose or different character, altering the first with new expression, meaning, or message; it asks, in other words, whether and to what extent the new work is “transformative.” . . .

For the purposes of copyright law, . . . the heart of any parodist's claim to quote from existing material, is the use of some elements of a prior author's composition to create a new one that, at least in part, comments on that author's works. If, on the contrary, the commentary has no critical bearing on the substance or style of the original composition, which the alleged infringer merely uses to get attention or to avoid the drudgery in working up something fresh, the claim to fairness in borrowing from another's work diminishes accordingly (if it does not vanish), and other factors, like the extent of its commerciality, loom larger. . . .

The Court of Appeals, however, immediately cut short the enquiry into 2 Live Crew's fair use claim by confining its treatment of the first factor essentially to one relevant fact, the commercial nature of the use. . . . [But] the language of the statute makes clear that the commercial or nonprofit educational purpose of a work is only one element of the first factor enquiry into its purpose and character. . . . The mere fact that a use is educational and not for profit does not insulate it from a finding of infringement, any more than the commercial character of a use bars a finding of fairness. If, indeed, commerciality carried presumptive force against a finding of fairness, the presumption would swallow nearly all of the illustrative uses listed in the preamble paragraph of § 107, including news reporting, comment, criticism, teaching, scholarship, and research, since these activities “are generally conducted for profit in this country.” Congress could not have intended such a rule . . . .

<sup>3</sup>When I actually post this exam, I will omit them.

## **Multiple Choice**

*(2 hours, 50% of grade)*

This portion of the exam has been omitted.