

EXAM # \_\_\_\_\_

## **FINAL Examination**

### **Property II**

**Professor VAN CLEAVE**

**SPRING 2008**

1. You have **three (3)** hours to complete this exam.
2. This is a **closed** book exam. Students may not use any outside materials or confer with each other during the exam.
3. This examination contains two parts:
  - **Part I** consists of twenty (25) multiple-choice questions. Please mark your responses to the multiple choice questions on the separate “ParSCORE TEST FORM” using pen or pencil and following the instructions on that form. If you change your answer, place a clear **X** through the wrong answer and mark the correct answer. A machine will score the exam and any ambiguities will be counted as a wrong answer. I recommend you spend approximately **60 minutes on Part I**.
  - If you believe that any question or answer selection is unfairly ambiguous please articulate your concerns on the back of the last page of the exam. Be sure to identify clearly the relevant question. You should not ask anyone about a question during the exam. I strongly suggest that you not devote too much time to such endeavors.
  - **Part II** consists of one (1) essay question. I strongly encourage you to spend 15-20 minutes outlining your answer before writing. I have allotted sufficient time for you to outline, write and review your answers. Read the questions carefully to ensure you address all the issues identified. I recommend that you spend approximately **120 minutes (two hours) on Part II**. Please write your response in the blue books provided. Please write clearly. Write on every other line and every other page to permit instructor comments.
4. Write your student exam number on your exam envelope. Put your **correct class section and student exam #** at the top of this page, each page of questions, each blue book, and the ParSCORE test form. **Do not** use your name, student ID number or Social Security Number on any exam materials.
5. At the conclusion of the exam, all examination papers—including the Part I ParSCORE test form, your answers for Part II, the examination questions, these instructions, and all notes—must be placed back in the exam envelope. Failure to

return all materials will result, among other sanctions, in a failing grade of “F” for the course. **Do not** seal the envelope.

**GOOD LUCK!**

## **PART TWO – ONE ESSAY QUESTION**

**Recommended time: 120 minutes (two hours)**

In 1950 Olivia decided to develop her land into about 100 parcels for single-family dwellings. She named the development “Sunshine Ridge” and recorded a plat setting out the subdivision. Sunshine Ridge included areas reserved for recreational use. The overall development plan emphasizes the aesthetic qualities of the community through numerous architectural and land use controls. Restrictive covenants were recorded as to each lot, binding Olivia and purchasers, “and their heirs and assigns forever.” Among the restrictions was the following:

2.2 No clothes hanging fixtures ... may be installed in front, back or side yards, by any lot owner unless such owner first obtains the consent of the Sunshine Ridge Homeowners Board (SRHB). In the absence of such consent, all clotheslines, garbage cans, trash, and other unsightly materials shall be kept in a garage or other enclosure so as to be out of the view of other lot owners.

Among other transfers, Olivia sold lot #25 to Abe. The Sunshine Ridge Homeowners Board re-recorded all original covenants in 1990. In 2002 Beni became the owner of lot #25 in Sunshine Ridge. Environmentally conscious, Beni installed solar panels on his roof, and took several other steps to “decrease his carbon footprint.” In 2007, Beni happened upon a website entitled “Your right to hang out.” This website encouraged readers to decrease reliance on clothes dryers in order to decrease energy consumption. Instead, people should hang their clothes out to dry in the sunshine. Beni did further research and learned that use of clothes dryers amounts to at least 6% of residential energy consumption. In addition, he learned that manufacturers of clothes dryers have not come up with technology that would make clothes dryers more efficient. Furthermore, decreasing his use of his clothes dryer would save him \$50 - \$100 per year on his electricity bill.

Beni bought a clothes line that he put up in his back yard. The height of the clothes line is lower than the height of the fences separating Beni’s property from that of his neighbors. Nonetheless, his neighbors complained. The Sunshine Ridge Homeowners Board sent Beni a notice stating that he had violated covenant number 2.2 because he had not obtained the consent of the Board before installing his clothes line. The notice informed him that he had 7 days to remove the clothes line without penalty. When Beni did not remove the clothes line, the Board began to fine him \$10/day. Eventually, Beni initiated a cause of action against the Board challenging covenant 2.2.

1) **Articulate and evaluate** arguments about the validity of covenant 2.2.

Beni is not the only person who has challenged restrictions on the use of clothes lines. A state legislator has proposed the following bill, entitled “Right to Dry”:

Notwithstanding any other provisions of law to the contrary, no building, housing, or health regulation of any government entity, and no contract of any manner whatsoever, including those between landlord and tenant, those between members of cooperatives, and those between joint owners, may prohibit one or more persons from erecting and using clotheslines on the premises for the purpose of drying clothes. Any such regulations or contracts in existence on enactment of this provision are void as of the effective date of this chapter. This prohibition shall not limit the reasonable regulation of the location of clotheslines on the premises in order to protect access to buildings, to protect the ability to evacuate the buildings in case of fire or other emergency, and to protect aesthetic values.

2) Assume that you work for another state legislator, Elsa. Elsa wants you to **evaluate** this proposed law and determine whether it would withstand a challenge in court.

3) **Evaluate** the effect of this provision, if enacted into law and if determined to be valid, on the dispute between Beni and Sunshine Ridge Homeowners Board.

Be sure to incorporate course materials into your analysis of the issues raised in all three questions.

**END OF PART TWO**

**END OF EXAM**