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Return this exam question paper to your invigilator at the end of the exam before you leave the classroom.

THIS EXAMINATION CONSISTS OF 3 PAGES
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THE UNIVERSITY OF BRITISH COLUMBIA
Peter A. Allard School of Law

EXAMINATION – DECEMBER 2018

LAW 231
Property

Section 2
Professor Pavlich

TOTAL MARKS: 100

**TIME ALLOWED: One (1) HOUR
and 15 minutes reading time**

NOTE:

1. This is an open-book examination.
2. The questions are not of equal marks. Please give answers that explain and discuss fully the reasons for your answers.
3. Unless the question states otherwise, assume the contentious matters in the narratives occur (or have occurred) in British Columbia between 2015 to 2018.
4. PLEASE ANSWER **BOTH** QUESTIONS.

THIS EXAMINATION CONSISTS OF 2 QUESTIONS – THEY ARE **NOT** OF EQUAL MARKS

MARKS

- 30 1. At a family event, two days before your "real property" exam, you engage your aunt in serious conversation. She is a sociology professor and enquires about this upcoming exam. She wants to know from your perspective what you understand by the word "property", especially "real property". Keeping in mind the quote "the imprint of the past is still discernible in the present", you provide her with an explanation. Discuss.
- 70 2. Belinda Bloggs (holds "Blackacre") and Sid Snooks (holds "Greenacre") are registered owners in fee simple of side by side, 5-acre lots. A creek flows through their respective lots. Belinda's parcel of land (Blackacre) is upstream of Sid's Greenacre. Both use the creek to supply their water requirements. Neither Belinda nor Sid has a water licence.

Sid wants to live a life as close to nature as possible. Sid takes water from the creek by bucket, since he does not need much for his simple wants. He has a small garden where he grows vegetables, mostly for his own use, although he occasionally sells the surplus to a few families in the vicinity.

By contrast, Belinda's dream is to get very rich and move to Vancouver. She installs a modern piping and pumping system to obtain water from the creek to operate a greenhouse to grow organic vegetables. Belinda's produce is in great demand in Vancouver among persons who are worried about the use of pesticides on food.

In the summer months the quantity of the creek's flow is greatly diminished. In the past this was not a problem; however, last summer, because of the water needs for Belinda's enterprise, she ended up diverting almost all of the water flowing in the creek.

Question 2, continued

Sid is greatly perturbed by the minimal amount of water for his use. When he approaches Belinda she tells him that she needs the water for her business. Sid is extremely concerned about what will happen next summer and tells Belinda he may have to consult a lawyer. He is also considering digging a well on his property.

But there's more. Belinda, has hired a contractor to excavate a large deposit of peat moss on Blackacre, having learned there is great market demand for this product. Her proposed excavation area is immediately adjacent to Sid's Greenacre. On Greenacre is an 8 ft. by 34 ft. travel trailer located within 18 inches of the boundary between Greenacre and Blackacre. The trailer has its wheels removed and sits on cement blocks. A covered porch is attached. Sid has lived in this trailer for more than 10 years. There is no water system or sewer system connected to the trailer. In addition, from time to time, the area in which Blackacre and Greenacre are located is subject to great winds and Sid is concerned loosened peat flakes on Blackacre will blow onto his Greenacre in great volume and disturb his lifestyle on Greenacre. He attempts to collect the dust and grit of peat moss in holes he has dug on Greenacre. He has directed these concerns to Belinda and demands that she empty the the rapidly filling holes on Greenacre..

Belinda has made an appointment to see you (a newly called lawyer) to get advice about Sid Snooks' "threat" to go to a lawyer and to get information from you on the liability exposure the contractor and Belinda would likely face from the excavation activity on Blackacre. **Advise on actions she might consider pursuing to alleviate likely legal exposures to Sid. Prepare a memorandum fully discussing your advice to Belinda on the matters she may confront in a lawsuit with Sid.**

******END OF EXAMINATION******