

**Write Your Exam Code Here: \_\_\_\_\_**

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**THIS EXAMINATION CONSISTS OF 4 PAGES, INCLUDING THIS PAGE  
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**THE UNIVERSITY OF BRITISH COLUMBIA  
PETER A. ALLARD SCHOOL OF LAW**

**MIDCOURSE EXAMINATION – DECEMBER 2018**

**LAW 231  
Property Law**

**Section 4  
Professor Tony Sheppard**

**TOTAL MARKS: 100**

**TIME ALLOWED: 1 hour and 15 minutes**

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**NOTE: 1. This is an open-book examination. Students may take the casebook, reading list, their own notes, and other class handouts into the examination room but UBC library books and other textbooks are prohibited.**

**THIS EXAMINATION CONSISTS OF 3 QUESTIONS  
WITH A CHOICE OF 3.1 OR 3.2  
DO NOT ANSWER BOTH**

**MARKS****50**

1. (Suggested time: 42 minutes) Charles Montgomery Burns (“Mr. Burns”) is the registered owner of the Springfield Nuclear Power Plant on a lot that borders on Springfield Creek, British Columbia. The edge of the creek bed forms a boundary of the lot. The registered owner of the vacant undeveloped lot next-door and downstream from Mr. Burns’ lot is Artie Ziff who is a billionaire software developer. Ziff is the owner of Ziffcorp, which manufactures his extremely popular software. Ziff’s property is a vacant lot, purchased for the purpose of constructing a new factory on it. Design of the factory is only in the early planning stage at this point, and construction has not begun yet.

The nuclear power regulators recently conducted a safety inspection of the Power Plant and found hundreds of violations of the safety code. These violations are the result of the stinginess of Mr. Burns in refusing to pay for adequate maintenance over many years of neglect and the incompetence of the Plant’s safety director, Homer Simpson. The safety regulators found that the Plant’s two cooling towers were insufficient and they required the installation of three more towers at an estimated cost of millions of dollars to Mr. Burns. The inspectors ordered Mr. Burns to build the three more cooling towers.

To reduce construction costs of the towers, Mr. Burns overruled the engineers’ recommendations for the safe removal and disposal of the radioactive toxic waste from his lot, and instead instructed the contractor to dump the toxic waste into Springfield Creek, where he hoped it would be washed downstream. This caused backfilling of the creek with toxic waste making the water unsuitable for use by downstream owners including Ziff. The manner of dumping the waste also changed the course of Springfield Creek moving the creek 100 meters from its previous location and causing a washing away of some of Ziff’s lot where it bordered on the creek. Mr. Burns did not have official permission for any of these activities. The result of the washing away of soil and the cave-in described in the next paragraph is that Ziff’s lot is now too small to contain Ziff’s proposed plant.

An initial step in the construction of the three towers was excavation of the site on Mr. Burns’ lot. Mr. Burns ordered the new towers’ site to be located close to the boundary line between his lot and Ziff’s and the excavation began. The engineers suggested that the excavation would require shoring to prevent collapse, but Mr. Burns dismissed the suggestion as an unnecessary and costly extravagance. Artie Ziff was showing Springfield Mayor Diamond Joe Quimby around his lot to explain his plans for the future software factory, when they watched in horror as a sudden cave-in of the surface of his lot occurred across the boundary line from the excavation and next to it.

Artie Ziff consults you for legal advice regarding any legal basis whereby he can sue Mr. Burns for the harm already caused, to prevent future harm and the remedies, if any. Advise Artie Ziff.

**MARKS****40**

2. (Suggested time: 30 minutes) Jeff Albertson (“Comic Book Guy”) owns a parcel of land in Springfield, British Columbia, that is occupied by the “Android’s Dungeon & Baseball Card Shop,” and a large parking lot. Stacey Lovell, the wealthy founder of the popular Malibu Stacey dolls, wishes to open a retail store in Springfield from which to sell her dolls. Stacey contacts Jeff to express an interest in buying the property. After they inspected the premises together, Stacey says to Jeff, “Your property is just right: I’ll pay you \$2,000,000 for the whole thing.” Jeff replies “Okay, fine by me.” They agree that lawyers are unnecessary for their transaction.

A week later, Stacey mails a check for \$1,000,000 to Jeff, with a signed covering letter that reads: “I am eager to buy your store. This is half of what I owe you.” Another week goes by and Stacey hires a contractor to repave the parking lot and to replace the sign on the front of the store with a new sign, “The Doll’s House.” Stacey phones Jeff to inform him that her contractor will be coming over to do the work on the property and he does not object. The repaving and sign cost Stacey \$300,000.

A month later, Stacey calls Jeff to set up the closing date, when she will pay Jeff another \$1,000,000. In the meantime, Jeff has consulted realtor, Cookie Kwan, who told him that she believes he has sold his property too cheaply because she has reason to expect property values will rise dramatically. Jeff takes Cookie’s advice seriously. Jeff tells Stacey that he is not going sell the property to her and offers to return the \$1,000,000 already received. Stacey tells Jeff to keep the money and threatens to sue Jeff for breach of contract. Jeff replies that lawyer Lionel Hutz opines they do not have an enforceable agreement under what he called “the law of British Columbia, the Statute of Frauds.” Stacey replies that she holds the second \$1,000,000 in cash and is ready to complete the transaction, but Jeff refuses, and wants to return the \$1,000,000 already exchanged. Assume the facts are undisputed. Advise Stacey whether or not she can enforce their understanding, compelling Jeff to complete it.

**10****EITHER**

- 3.1(Suggested time: 8 minutes) Abe Simpson lives in the seniors’ Springfield Retirement Castle. Abe has typed up a will leaving everything to his son, Homer. Abe phones Lionel Hutz asking how to formalize a will and Hutz explains the procedure over the phone, but says he is too busy to attend to execution personally. Abe asks chain-smoking Patty and Selma Bouvier to see him sign. Abe signs at the end of the will while Patty watches him. Then Patty signs as a witness but Selma had left Abe’s room for a cigarette, and did not see either Abe or Patty sign. Ten minutes later, Selma returns to Abe’s room and signs the will. Sadly, Abe has passed away. Is Abe’s will valid? Discuss.

**-OR-**

- 3.2 Explain briefly the meaning of the phrase, “title by registration.”

**END OF EXAMINATION**