

Write Your Exam Code Here: _____

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 (including this cover)
PLEASE ENSURE THAT YOU HAVE A COMPLETE PAPER**

THE UNIVERSITY OF BRITISH COLUMBIA
PETER A ALLARD SCHOOL OF LAW

MIDTERM EXAMINATION – DECEMBER 2019

**LAW 231
Property Law**

**Section 1
Professor Wood**

TOTAL MARKS: 100

TIME ALLOWED: 1 HOUR AND 15 MINUTES

NOTE:

1. **This is an open book exam.** You may bring any printed notes and materials with you. You may not use any electronic device apart from a computer loaded with Exemplify software supplied by UBC.
2. **There is no dedicated reading period** but you are encouraged to use the first 15 minutes to read the questions carefully and plan your answers.
3. **This examination has two questions, each worth 50 marks. You must answer Question 1 and either Question 2(a) or 2(b).**
4. **Identify yourself only by your exam code.**
5. **Write the number of the question** you are answering at the start of each answer.
6. **All individuals are adults with full legal capacity and all events take place in British Columbia today** unless otherwise specified.
7. If you believe you need more information to answer a question, **indicate what additional information you need and why.** If you assume additional information, **state your assumptions clearly and explain why you are making them.** Do not make any assumptions that avoid relevant legal issues.
8. When a question asks you to refer to **course materials**, this means any information conveyed in the course, including the assigned readings, lectures, class discussions, slides, handouts, and resources posted on the course website, except to the extent that I have indicated they are not examinable.
9. **If you are handwriting, write your exam code on the front of every booklet**, along with the number(s) of the question(s) answered in the booklet, and **write your answer legibly, ON EVERY OTHER LINE, preferably in ink.**

THIS EXAMINATION CONSISTS OF TWO QUESTIONS

AA Properties Ltd. is the registered owner of a parcel of land in the interior of BC measuring several hundred hectares, on which it operates a cattle ranch known as Double A Ranch. Near the centre of the ranch is a natural lake named **Biggwosit Lake** after the settler who received title to the land by Crown grant in 1895. The lake is entirely surrounded by AA's land. A river drains into one end of the lake, bringing water from the surrounding mountains. Another river at the other end of the lake drains water out of the lake and down a valley.

One winter around twenty years ago, natural seismic activity triggered a sudden rockslide that blocked the outlet from Biggwosit Lake. That spring, the water backed up behind this natural rock dam and the lake rose around three metres above its old level, stabilizing when the water began to flow over the top of the rock dam. As a result the lake expanded substantially and the visible high water mark moved dozens of metres landward.

Biggwosit Lake and the two rivers are navigable with the exception of the portion of the river that flows over the rock dam. Boaters must portage around that portion.

The original Crown grant of the land to **Butjustau Biggwosit** included no express language relating to the lake, rivers, or fishing rights. On the map attached to the grant, the lake and the two rivers were outlined and shaded blue. The rest of the lot was shaded red.

AA Properties operates a fishing lodge at Biggwosit Lake. It stocks the lake each year with trout (a species of fish) that it purchases from a hatchery. It intends these fish to be caught by the lodge's paying guests. All trout that live in the lake are stocked by AA Properties.

Biggwosit lake is reached by a public road that begins outside AA's land and terminates at the old lakeshore. The end of the road was submerged when the lake expanded after the rockslide, transforming the road into a convenient boat launch. The road is used by members of the public to gain access to the lake for fishing and recreation, to launch boats in summer, and to tow ice-fishing huts on and off the lake in winter. AA Properties does not obstruct these activities.

Carl Yerdogsov was one of the people who engaged in these activities. He owned an ice-fishing hut. The hut was on wheels and had a hitch for towing. Every winter, Carl towed the hut onto the ice of Biggwosit Lake and parked it there. He and his housemate, **Danny Van Tingebouwtet**, spent their weekends ice-fishing at the hut. Over the course of each winter they caught a large amount of trout, which they stored in a locked, bear-proof container on the ice beside the hut. The freezing winter temperatures kept the fish from rotting.

Carl and Danny had a consistent fishing system. Carl operated the fishing rod, hooked trout through a hole in the ice and reeled them up through the hole. Danny grabbed the trout (still very much alive and only slightly injured), removed the hook, killed and cleaned the fish, and placed them in a wooden crate lined with ice, where they would freeze quickly. Danny then transferred the frozen trout from the crate to the container beside the hut. Before the spring thaw, Carl transferred the container of trout onto his truck, took it to the home he shared with Danny, and put the trout in the freezer in the home. Both he and Danny ate the fish, but they never discussed who owned them.

Carl and Danny are old and getting tired of fishing. One weekend last winter before the thaw, they brought Carl's niece, **Eukann Shuvitopyer Tush**, along with them to Biggwosit Lake. Eukann was Carl's favourite niece. Carl had given her numerous gifts in the past and had an impulsive,

generous personality. During the weekend, Carl lost his Rolex watch outdoors. Eukann searched for hours and found the watch just as they were about to leave.

Carl was overjoyed when Eukann returned the watch to him. In the presence of Danny, he pointed at the fishing hut while exclaiming to Eukann, "You found my Rolex, so the fishing hut is yours!" Eukann went over and put her hand against the hut, saying "Uncle Carl, what am I supposed to do with a fishing hut? I don't even fish!" to which Carl replied "It's yours now, my dear!" Carl then locked the hut and the hitch used to haul it, and handed Eukann the keys to the locks. Eukann shrugged and put the keys in her pocket. Carl took out a knife and carved the letters "EST" into the wall of the hut. Danny said, "Carl and me will get the fish later." They departed in Carl's truck, leaving the hut and the container of frozen trout on the ice of Lake Biggwsit. At the time, the hut was worth around \$2,000 and the Rolex watch around \$20,000.

For reasons that are not clear, neither Carl nor Danny nor Eukann has returned to the lake since that day. Back at home, Carl delivered the spare keys for the fishing hut to Eukann. Eukann now has all the keys to the fishing hut. She keeps them in a drawer in her home.

No one towed the hut off the lake last spring, and it sank after the ice melted. It came to rest on the lake bed, submerged up to its roof. With the water damage, the hut is now worth less than the cost of hauling it out of the lake. The fish container came to rest on the roof of the hut. The trout inside rotted and created a stinky mess. The hut and container are sitting entirely on the portion of the lake bed that was added when the lake expanded after the rockslide.

The **provincial government** has issued an order requiring the owner(s) of the fishing hut and the rotting fish to remove them and to pay a fine of \$100 per day until this is done. The order also says that if this is not done within 30 days, the owner of the land on which the hut and container are situated must do it and will be liable to the same fines until it is done.

Please advise the provincial government on the following questions, limiting yourself to course materials that are examinable on the midterm:

MARKS

50 1. Who owns the lake bed where the hut and container are resting?

50 2. Answer either (a) or (b):

(a) Who owns the fishing hut?

OR

(b) Who owns the rotten fish?

END OF EXAMINATION

Happy Holidays!