

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 4 PAGES (INCLUDING THIS COVER)
PLEASE ENSURE THAT YOU HAVE A COMPLETE PAPER

THE UNIVERSITY OF BRITISH COLUMBIA
PETER A. ALLARD SCHOOL OF LAW

EXAMINATION – DECEMBER 2019

LAW 231.003 – Property Law
Professor DC Harris

TOTAL MARKS: 100
TIME ALLOWED: 1 HOUR & 15 MINUTES

1. This examination consists of two questions. Each question is worth 50 marks. Answer both questions. You are encouraged to use 15 minutes to organise your answers before you start writing.
2. This is a limited open-book exam. You are allowed to bring written material into the exam, including your notes and course summaries. You are also allowed to use *A Property Law Reader* and any statutory material or case law. You are not permitted to use property law text books.
3. Unless otherwise indicated, assume the applicable law is the law of British Columbia.
4. Students writing by hand:
 - a. write legibly on every second line of your exam booklet and on one side of the page;
 - b. do not put your name on the exam booklets; and
 - c. return all exam booklets, including blank ones, at the end of the exam.
5. Students using ExamSoft, please ensure that:
 - a. you enter your exam code in the appropriate place; and
 - b. you do not include your name anywhere in the exam.
6. Put your exam code on the question paper and return the question paper at the end of the exam.
7. Do not begin your exam until you are instructed to do so.
8. **Good luck!**

PART 1 (50 marks)

In 2018, the Kettle and Granby rivers flooded, covering much of the town of Grand Forks, British Columbia. Once the flood waters receded, the town, with funds from the Federal and Provincial governments, announced a plan to reinforce the river banks, to build dykes, and to expropriate approximately 100 properties situated on the flood plain, outside the proposed flood defenses, in the neighbourhoods of North and South Ruckle.

The value of the properties on the flood plain has declined significantly since the flood. The town has announced that it intends to compensate the owners at current values. The owners seek compensation at pre-flood values.

The Balmoral Hotel and the Regency Hotel are single-room-occupancy hotels on Hastings Street, just east of Main Street, in the City of Vancouver's Downtown Eastside Neighbourhood. The Sahota family owns both buildings. After years of attempting to work with the owners to repair the decrepit buildings, which housed long-term, low-income tenants and that were in violation of many minimum health and safety standards, the City finally closed the Balmoral Hotel in 2017 and the Regent Hotel in 2018 after deeming them unsafe to occupy.

On 6 November 2019, Vancouver's City Council voted unanimously to expropriate each hotel for \$1. The City reached this figure after an independent report which determined that the demolition and rebuilding costs, or the renovation costs, exceeded the value of the lots and buildings, and thus that the properties had negative value.

The Sahota family has announced plans to fight the expropriation orders in part on the grounds that the compensation is inadequate.

What does the law of British Columbia provide in terms of compensation for expropriation? What principle informs the law? Are the compensation awards in the cases described above consistent with the law and the principle that informs it? Do they provide grounds for rethinking the appropriate level or standard of compensation for expropriation? Do they provide grounds for an argument that a right to compensation is inadequate protection for private property?

PART 2 (50 marks)

According to Wikipedia, “Banksy is an anonymous England-based street artist, vandal, political activist, and film director, active since the 1990s. His satirical street art and subversive epigrams combine dark humour with graffiti executed in a distinctive stenciling technique. His works of political and social commentary have been featured on streets, walls and bridges of cities throughout the world.”

In 2004, *The Drinker*, a bronze sculpture of a seated man with his chin on his hand and a traffic cone on his head, and set on top of a large granite block, appeared in a small public square in London, England. The sculpture as it appeared in the square is shown in the photograph below.



The local government that is responsible for the square had not provided permission for the installation of the sculpture, and nobody claimed responsibility for its appearance, although a stylized version of “Banksy” was spray painted on the granite base (visible at the bottom right-hand corner of the base in the photograph above), and everyone assumed that Banksy had created the sculpture and placed it there. Although it is difficult to confirm, it appears that Banksy intended to move the sculpture from venue to venue, in public locations around London.

Shortly after it was placed in the square, another English artist, who goes by the name of Link, removed the sculpture from the square in broad daylight, without authorization from anyone, and placed it in his garden. Link had no part in the making of the sculpture and no prior claim to it. However, operating on the assumption that it was a Banksy

sculpture, Link offered to return it to Banksy for £5000. In reply, Banksy suggested that Link burn the sculpture, and offered to pay £2 towards the cost of gasoline.

The sculpture remained in Link's garden until 2007, when, without Link's knowledge or permission, somebody removed it while Link was out of the country. Earlier this year, Sotheby's advertised *The Drinker* in an auction catalogue. The catalogue does not reveal the identity of the seller. Sotheby's expects the sculpture to sell for at least £1 million.

Link has contested the right of Sotheby's to auction the sculpture and seeks its return. As a result, Sotheby's has withdrawn *The Drinker* from its auction list until the issue of ownership is resolved.

Will Link's claim prevail over the seller's? Why or why not? Does it matter if Banksy created *The Drinker* and was the one who took it from Link's garden? Does it matter if the seller of *The Drinker* is Banksy, or had acquired the sculpture from Banksy? Finally, what does the conflict over *The Drinker* reveal about the nature of property claims at common law?

Draw on the material covered in this course to answer these questions. In doing so, assume that the whole episode occurred in Vancouver and that there are no issues involving limitation periods.

END OF EXAMINATION