

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

FINAL EXAMINATION – APRIL 2021

LAW 442.001
CONDOMINIUM LAW

Professor Douglas C. Harris

EXAM PASSWORD: puEVT7
RESUME CODE: B138B8

TOTAL MARKS: 100

(8:50 AM PDT) **PREPARATION TIME ALLOWED: 10 MINUTES**

(9:00 AM PDT) **WRITING (INCLUSIVE OF READING) TIME ALLOWED: 1.5 hours (90 minutes)**

8:50-9:00 AM Preparation Time (Exam writing not permitted) – This time is given to students to download/print your exam questions once the exam has been made available online on Canvas, to read the Exam Password on this exam coversheet, to enter the Exam Password for the exam in Exemplify, and to progress in Exemplify until you see the **STOP SIGN**, where you will **WAIT until 9:00 AM. DO NOT proceed past the STOP SIGN. DO NOT begin typing your exam answers in Exemplify until 9:00 AM!**

9:00 AM Exam Writing Time – At 9:00 AM, you may proceed past the **STOP SIGN** in Exemplify and begin typing your exam answers. Students are required to calculate and monitor their own time for writing exams. All exam answer uploads will be monitored to ensure that typing of answers only occurred during the allotted Exam Writing Time.

This is an open book examination. You may refer to any of your notes as well as the readings and statutes and any published or unpublished material.

If you think you have discovered an error or potential error in a question on this exam, please make a realistic assumption, set out that assumption clearly in writing for your professor, and continue answering the question. Do not email your professor or anyone else about this while the exam is in progress.

ACADEMIC INTEGRITY

Any exam answers that raise suspicion of breaking any restrictions outlined on this cover page may be subject to being processed through academic integrity software. Students typing exam answers before or after the allocated exam writing time may receive a grade penalty.

CONFIDENTIALITY REGULATIONS – READ CAREFULLY

As this exam is being written off-campus and is unsupervised, any communication whatsoever (including, but not limited to in person, telephone, e-mail, text, social media, etc.) concerning the contents of this examination with anyone (other than the Student Services staff of the Allard School of Law) is strictly prohibited.

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- **I'm experiencing technical difficulties DURING THE WRITING of the exam**

If you experience technical difficulties with Exemplify at the very beginning or during an exam, you may attempt to solve your problem/reboot your computer **BY YOURSELF**. You are **STRONGLY** encouraged to spend **NO MORE THAN 5 minutes** attempting to do so. You will **NOT BE GIVEN ANY EXTRA TIME** to complete the exam. **If your attempt to solve the problem is unsuccessful**, or if you choose not to make such an attempt, you **MUST** immediately **begin hand-writing** your exam answers with pen on lined paper. **You may NOT type your exam answer in word-processing software.**

When you have finished writing the exam, you must upload the exam answers that you completed in Exemplify (if you are prompted for a Resume Code, it is on the coversheet of the exam questions). Email Bernie Flinn, flinn@allard.ubc.ca, for help with this. Please provide your phone number in the email. Bernie or another IT Support staff person will then help you to upload any answers that you typed in Exemplify.

You must also upload to Canvas your hand-written exam answers into the "Exam Answer File Upload (Word Processor or Hand-written ONLY)" folder. Scan or take a picture of each page (.jpg) of your exam and put them into one folder to upload.

Your answer file should be named, and the coversheet of your answers should be titled with:
Your Exam Code, Course Number, Name of Course, and Instructor Name
i.e., **9999 LAW 100.001 Law of Exam Taking – Galileo**

- **I'm experiencing technical difficulties EXITING and UPLOADING the exam**

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If you have approved accommodations to type your answers using Word Processing Software, and experience difficulties uploading your exam answer file to Canvas, email your exam answer file to studentservices@allard.ubc.ca.

- **I fall ill in the middle of an exam, or am otherwise interrupted such that I'm unable to continue writing my exam**

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LAW 442.001

There are TWO questions. Answer BOTH questions. Each question is worth 50 marks.

Question 1

50 marks

British Columbia's condominium legislation permits owner-developers and strata corporations to create bylaws that:

- prohibit or limit the rental of residential strata lots (*SPA* s 141(2));
- prohibit or restrict pets (*SPA* s 123(1)); and
- restrict the age of persons who may reside in a strata lot (*SPA* ss 121(2)(c) & 123(1.1)).

Using one or two of these provisions, comment on the appropriateness of these powers. Should an owner-developer or a community of owners have the power, through a strata corporation, to set such limits on the use and occupation of a residential strata lot? If so, are the existing exemptions, which exempt residents in particular situations from these rules, sufficient?

Question 2

50 marks

In June 2020, you and your partner purchased the fee simple interest in a 2-bedroom apartment in a 50-unit residential strata property development on Vancouver's East Side. The development was completed in 2019. The unit that you and your partner acquired was the last one still owned by the owner-developer, StrataHomes.

The first Annual General Meeting (AGM) of the strata corporation was in June 2019, the second was in June 2020, just before you took possession of the apartment.

When you received the minutes of the 2020 AGM, you discovered that the owners had voted by a narrow majority to approve a budget with a \$100 per month increase in strata fees. The minutes contained the following explanation about the increased strata fees:

In the months since the start of the covid-19 pandemic, the strata council has identified additional cleaning and security requirements that are

necessary in order to maintain the health and safety of residents. As a result, in May the strata council entered into an “Additional Services Contract” on behalf of the strata corporation with the existing strata management company, AllStar Management, to provide additional cleaning and security services. The increase in strata fees will go into the Operating Fund to cover these additional costs.

The minutes of the 2020 AGM did not include a copy of the Additional Services Contract, and nor did they mention any other contract with AllStar Management. However, in the minutes of the 2019 AGM you found a copy of the contract (the Original Contract) that StrataHomes had signed on behalf of the strata corporation with AllStar. That contract included provisions for cleaning and security services to the strata corporation.

Given the provisions for cleaning and security services in the Original Contract, it was not clear to you why the Additional Services Contract was necessary. You asked your neighbour in the strata lot next door, Eleanor Rigby, if there had been discussion about the Original Contract at the 2020 AGM and about why the Additional Services Contract was necessary. Rigby indicated that the Original Contract had not been discussed or considered and that the strata council president had spoken about the need for additional cleaning and security, but Rigby couldn't remember more.

Concerned about the additional strata fees and in an effort to learn more, in July 2020 you sent a request in writing to AllStar for a copy of the Additional Services Contract and for a hearing with the strata council. You did not receive a reply, so you followed up with a second request in August. Finally, the strata manager from AllStar contacted you in September, provided a copy of the Additional Services Contract, and indicated that you could attend the next strata council meeting scheduled for October.

The five-member strata council had been elected at the 2020 AGM in June. Three of the council members, including the president, Sergeant Pepper, were on the previous strata council and participated in the vote when it approved the Additional Services Contract in May 2020. At your meeting with the strata council, you asked for more information, including details of what services AllStar was providing that were not covered in the Original Contract. Pepper did not provide any details.

Instead, she indicated that she had been involved in the apartment construction and strata property business for decades and that the Additional Services Contract was reasonable in the circumstances. At the end of hearing, you asked the strata council to provide detailed accounts of what services AllStar was providing under the Additional Services Contract. You have received nothing since that meeting.

You have also discovered that strata council president Pepper is the sister of the owner of AllStar Management, Rocky Racoon, and that the two other continuing

members on the strata council are former employees of StrataHomes. You have also discovered that AllStar serves as the strata management company for several other StrataHomes' developments.

Based on the information you have collected and the lack of a full explanation from the strata council or Allstar, you are beginning to question whether the Additional Services Contract and the Original Contract are in the best interests of the strata corporation. Describe and evaluate the legal arguments that might sustain a challenge to the validity of these contracts. Where would you initiate such a proceeding?

END OF EXAMINATION