THIS EXAMINATION CONSISTS OF 3 PAGES

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THE UNIVERSITY OF BRITISH COLUMBIA

PETER A. ALLARD SCHOOL OF LAW

FALL EXAMINATION – DECEMBER 2022

LAW 231

Property Law

Section 1

Professor Douglas C Harris

**TOTAL MARKS:** 100

**TIME ALLOWED:** 1 HOUR & 15 MINUTES

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1. This examination consists of two questions. Each question is worth 50 marks. Answer both questions.
2. This is an open-book exam. You are allowed to use printed and other written material in this exam, including your notes and course summaries, statutory material, and the casebook: *A Property Law Reader*.
3. Assume the applicable law is that of British Columbia.
4. Put your exam code on the question paper and return the question paper at the end of the exam.
5. Students writing by hand:
   1. write legibly on every second line of your exam booklet and on one side of the page;
   2. do not put your name on the exam booklets; and
   3. return all exam booklets, including blank ones, at the end of the exam.
6. Do not begin your exam until you are instructed to do so.
7. **Good luck!**

**PART 1 (50 marks)**

“The law of property is not about things, but about the rules governing relationships between people with respect to things.”

Comment on how this statement may be useful in understanding the institution of property, but also limiting.

**PART 2 (50 marks)**

Sergeant Pepper is a blueberry farmer. She worked for other farmers for years, but in 2015, Pepper leased a 15-acre parcel on the outskirts of Abbotsford from Eleanor Rigby to start her own farm. The lease agreement stipulated a 10-year term.

The lease agreement also included a provision that, unless Pepper and Rigby agreed otherwise, Pepper would remove the blueberry bushes at the end of the lease and would plant a cover crop of Timothy grass. Rigby did not want to be left with fields of untended blueberry bushes at the end of the lease, and Pepper was happy to include such a provision. She would be buying and planting the bushes, and she could move them to a new location or sell them at the end of the lease. Blueberry plants remain productive for many years and, although it takes time to dig and transport mature bushes to a new location, there is a market for fruit-bearing plants. In addition, the lease included a provision prohibiting Pepper from assigning (transferring) the lease or granting a sub-lease.

Having secured farmland, Pepper planted the 15 acres in blueberries and installed a drip irrigation system. To install the system, Pepper drove short wooden posts into the ground along each row of blueberries and then used metal clamps to attach flexible plastic piping to the posts about two feet (approximately 60 cms) off the ground.

The lease agreement also included a provision permitting Pepper to place a small structure on the 15 acres to serve as an office and another structure to serve as seasonal accommodation for the temporary foreign workers from Mexico. Pepper used a steel shipping container as the office structure, placing it on a gravel pad and connecting it to electrical and phone lines. For the workers, Pepper installed an old manufactured home, which she purchased from a neighbouring farmer. To do so, Pepper dug small holes with a backhoe tractor, laid gravel, and then poured six concrete pads, one for each corner of the structure and two in the middle. The pads were 2’ x 2’ (two feet by two feet) across and six inches deep, with a metal bracket embedded in the concrete. Then she placed concrete blocks on the pads and the manufactured home sat on the blocks, approximately three feet off the ground. It was secured with metal rods that were bolted to the frame of the manufactured home and to the brackets in the concrete. Pepper also built wooden stairs and a small deck at the entrance to the manufactured home. The stairs and deck were bolted to the manufactured home and also to another small concrete slab that served as a footing at the base of the stairs. Pepper connected the manufactured home to the electrical grid and to municipal water and sewage systems.

By the end of 2015, Pepper had planted the blueberry bushes, installed the infrastructure, and was operating under the business name of Pepper’s Blueberries. The following year, there was a light crop on the young plants, and then, in 2017, Pepper had her first substantial crop. Sales were good.

However, 2018 was not so kind to farmers in southern British Columbia. A dry spring led to forest fires, beginning in May, and much of the province was covered in smoke through many weeks of the growing season. Pepper’s blueberry crop declined dramatically, and then the bushes were hit again in 2019 by cold, wet weather in the spring that impaired the pollination of the plants.

Pepper sold the Pepper’s Blueberries business in 2019, including everything she had installed on the farm, to Rocky Raccoon. Racoon entered into a new lease with Rigby for the 15-acres on the same terms as the lease agreement with Pepper, including the provisions to remove the blueberry bushes at the end of the lease and the prohibition on assigning the lease.

Racoon’s blueberry crops in 2020 and 2021 were only fair, and then the atmospheric river and resulting floods in November 2021 covered the field with water for many weeks. Racoon did no clean-up work after the water receded and he left the blueberry bushes untended and unharvested in 2022. Seeing that nothing had happened in the fields, Pepper approached Racoon and bought back Pepper’s Blueberries from him in September 2022. The agreement between Pepper and Racoon included a provision assigning the lease for the 15 acres from Racoon to Pepper.

However, Rigby has refused to grant Pepper access. When nothing was done after the flood, Rigby assumed that Racoon had abandoned the lease. Rigby is not acknowledging Racoon’s assignment of the lease—an assignment that is prohibited under the lease agreement—and has decided to farm the land themselves.

Pepper has come to the law firm at which you work for advice. One of the partners has asked you to provide an opinion on whether Pepper may have an action in conversion against Rigby for the wrongful taking of property, including blueberry bushes, irrigation system, shipping container, and manufactured home. Based on the material covered in this course, please provide that opinion, explaining the basis in law for your conclusions.

**END OF EXAMINATION**