THIS EXAMINATION CONSISTS OF 3 PAGES.

PLEASE ENSURE THAT YOU HAVE A COMPLETE PAPER.

THE UNIVERSITY OF BRITISH COLUMBIA

PETER A. ALLARD SCHOOL OF LAW

FINAL EXAMINATION – DECEMBER 2022

LAW 231

Property Law

Section 2

Professor Dennis Pavlich/Bruce Woolley

**MARKS:** 100

**TIME ALLOWED:** 1 HOUR (PLUS 15 MINUTES OF READING TIME)

1. This examination is OPEN BOOK.
2. Answer ALL questions.
3. The questions are NOT of equal marks.
4. If, in answering a question, alternative conclusions are reasonably possible, state and discuss them. If you need additional facts to answer a question, state what they are and why they are necessary.
5. If you think other facts are needed to answer the questions, indicate the nature of the facts and why you think they are relevant.

 **1.** West Coast Vista University (WCVU) is located on top of a mountain in Vancouver, B.C. The current campus student population is 25,000 students with about 7,500 resident on campus. WCVU also has a growing community of mixed residential and commercial residents as part of its growing “college town” strategic plan. Many owners in the area hold land registered in fee simple and used for residential, conservatory, recreation and commercial purposes. In ten years, the expected population at WCVU could, with the student residents, reach over 30,000 people on a more-or-less continuing "24 hours, 7 days a week" basis.

There is a 2.5 km hike to the top of the mountain. Buses serviced by a local transit authority from the base of the mountain to the summit leave every 1 – 2 minutes depending on traffic and weather conditions, and can take 14 – 20 minutes per ride to traverse the very winding road to the campus and college town summit. When it snows on campus, a reasonably frequent event in the winter months, buses are often unable to make it to the top of the mountain and students can miss their classes and exams - up to 10 days out of the academic year. The bus service, financed by the property taxes of Vancouver residents, requires high fuel costs and maintenance for wear and tear, especially the replacement of brakes. The local transit authority receives many complaints about the unreliability and lack of safety of the bus service and pollution from the odor emitted by the brakes that many commuters have complained is unhealthy. The roads are in need of repair.

The Board of the WCVU Trust responsible for the development, housing and transportation of the community at WCVU has teamed up with the local transit authority to conduct a feasibility study for the building of a gondola that would take transit users from the local tram station not too distant from the base of the mountain to the summit in 6 minutes, leaving every minute, and thus moving more people in less time. The gondola project would cost about $100 million involving the construction of bus-sized cars suspended on wires that carry the vehicles in the air on wires that stretch from the sky train station to the campus with supporting pillars along the way. The possible benefits of this alternative transit option include replacing an inefficient bus service, reducing greenhouse gas emissions by 1,870 tons annually and compatibility with WCVU Trusts’ “Sustainability Mobility Plan”.

Owners and tenants along the course of the projected lift line have been advised of the project which will carry gondolas, at their lowest point, some 30 metres (100 feet) and at their highest point some 92 metres (300 feet) above the surface of the subdivided lots immediately above. Each car will carry paid advertising on the base – a part of the revenue-producing plan. Besides many single-family lots, the proposed route traverses the air space of a number of mixed use parcels of land. Except at the sky train station and the property of WCVU, municipal legislation prohibits the building of structures more than a height of 36.5 metres (120 feet) high in that area of Vancouver save for structures on lands owned by the university and the transit company. Also along the proposed route are properties with:

1. Commercial tenants with restrictions on advertising certain products on their leased land,
2. An adjoining parcel of land in which the developer is seeking municipal approval to build a residential high rise of 76 metres (250 feet),
3. An owner of a very large parcel with recreational style activities including water slides and Disney-like rides who has written to the Trust Company inviting it to have the gondola swing through its air space "for free" as it will add to ambience of the theme park it operates. The plans for the lift show that a concrete base to support the gondola wires will need to be constructed on this site

A corporate owner higher up and some distance from the recreational property, operates a conservatory on the mountain. It is concerned about the project’s potential impact on a salmon stream that is close to the tower stations for the gondola on the proposed route.

Many, but not all, the residents along the proposed gondola path have expressed concerns about privacy issues with their homes being visible from the high-speed urban transit gondola.

**You are an articling student working at a law firm in Vancouver that acts for WCVU. A partner in the law firm has asked you to advise of potential issues (including references to types of interest in land, if any, and forms of sub-division, if any,) that need to be addressed with reference to different property owners in the vicinity so that she can advise WCVU. Suggest possible approaches to those issues in general terms. If you require further information from the client, indicate so in your answer.**

**[70 marks]**

**2.** "Both with lawyers and with laymen this term 'property' has no definite or stable connotation. Sometimes it is employed to indicate the physical object to which various legal rights, privileges, etc., relate; then again - with far greater discrimination and accuracy - the word is used to denote the legal interest (or aggregate of legal relations) appertaining to such a physical object" (Wesley Newcombe Hohfeld). Discuss this observation analyzing its accuracy from the perspective of real property.

**[30 marks]**

**END OF EXAMINATION**