

Property
Spring 2020
Prof. Ford

Take-Home Midterm Exam

This take-home midterm is worth 25% of your course grade. It is due on **Wednesday, February 19, at 12:30 pm**. By then, you must return **two printed copies** of your responses to the Registrar's Office. Late exams will result in a reduction of your course grade by one-third letter grade per day.

This exam consists of two questions, with points allocated as indicated. You must not spend more than **four hours total** completing this exam (I expect you will need less time than that), and you must not use more than **800 words total** (not including the honor statement described below).

Because you have flexibility about when to complete the exam, other students may be completing this exam before or after you do so. Accordingly, you must not discuss the exam with anyone, student or not, until I tell you in class that every student has turned in his or her exam. Additionally, neither the TA nor I will be able to answer questions about the exam while it is in progress. You may use any materials you wish while completing this exam, though you must write your own responses, and must not paste any previously written material into your answers.

The formatting instructions in this paragraph are very important, and you should follow them or expect to lose points. Format your responses similarly to this document: single-spaced, with 1.5-inch margins, numbered pages, and empty space between paragraphs. Print single-sided and staple each copy of your responses at the top left corner of the page. Use 12-point Book Antiqua, Century, Palatino, Constantia, Cambria, or another high-quality proportionally spaced serif font appropriate for body text. Do *not* use Times New Roman, which is a terrible font. Type your responses. Do not include your name or any identifying info. Instead, place only your assigned exam number on the top right of your responses. Include your total word count at the end of your exam.

As in legal practice, writing, clarity, and (especially) brevity count, so spend some time outlining your responses and leave some time to edit them. Follow standard practices of good writing: use topic sentences; break up your text into paragraphs, each focused on a single idea; use short, complete, grammatically correct sentences.

Please also type the following at the top of your exam (again, without copying and pasting!): "I affirm that I have not discussed this exam with other students or anyone else during its administration. I further affirm that I understand and have complied with the word and time limits governing this exam."

Good luck!

Question 1 (60%)

Stephanie Dahlquist has lived in a row house in downtown Paris, New Vermont for more than 20 years. Shortly after moving into the row house, Dahlquist became frustrated with one of her neighbors, a commercial strip mall shopping center (a row of stores, all connected together, with parking in front) about a block away. At the time, the city was in the middle of an economic downturn, with about half the storefronts vacant; the parking lot in front of the shopping center was frequently empty and a small enclosed lawn area that had previously contained decorative shrubs and grass had been largely abandoned, with the plants dying and weeds taking over the dirt.

Dahlquist decided that the neighborhood needed a garden. Since she didn't have a lawn of her own, she decided to turn the small lawn in front of the shopping center into a sort of community garden. So she removed the dead plants, put down new soil, and started growing vegetables and flowers from seeds she bought at a garden store in the strip mall. She didn't ask anyone for permission, but occasionally the proprietors of some of the stores would ask her how the garden was going and suggest they were happy to have it there.

For the next 20 years, Dahlquist kept the garden going, planting each spring and maintaining it through the summer and fall growing seasons. The garden was typically dormant in the winter, and the weather occasionally caused the year's crop to fail early, but otherwise Dahlquist worked on it each year. Neighbors would frequently help her weed or harvest, and occasionally some of them would come pick some flowers or vegetables without her knowledge, but the neighbors generally understood her to be in charge and deferred to her decisions about what seeds to plant, when to harvest, and so forth. The food would go to Dahlquist and her neighbors, but it produced more than they could eat, so the excess was donated to a nearby food pantry.

Recently, the commercial real-estate firm that owns the shopping center has been taken over by a hedge fund and they've been looking for ways to better monetize the firm's portfolio. They've targeted the shopping center for redevelopment into a commercial office building. Dahlquist is looking for ways to stop the development. She heard from a lawyer neighbor that she may have adversely possessed the garden area, which would make it hard for the company to build their planned office building. She comes to you for legal advice.

The statute of limitations in New Vermont is ten years. The "hostile" element of the state's adverse-possession doctrine has no mental-state requirement.

Analyze the likelihood that Dahlquist has adversely possessed the garden area and thus will be able to stop, or at least delay, the redevelopment plan.

Question 2 (40%)

A state legislature is considering a bill with the following text:

Found Property Reform Act

- (a) Any person who finds any lost or mislaid item of personal property shall provide public notice via a website maintained by the State for that purpose within 30 days of finding the item.
- (b) Upon providing public notice as described in subsection (a) and the passage of one year, the person who finds an item becomes the true owner of the item. Upon application to the Superior Court after the conditions in this subsection have been satisfied, the person may obtain a declaration quieting title in the item.
- (c) In the event that a person who finds a lost or mislaid item of personal property fails to provide public notice pursuant to subsection (a), the statute of limitations for claims based on ownership of the item shall be five years and shall be tolled until the true owner has actual notice of the location of the item or the identity of its finder.
- (d) A finder who provides public notice pursuant to subsection (a) shall be entitled to receive a finders fee of 10% of the item's value up to \$1000 of value, and 5% of the item's value above \$1000 of value, upon a successful claim by the true owner to the item.
- (e) The Department of Public Safety is responsible for establishing and promoting the website described in subsection (a), which shall allow a finder to post a notice including the description of the item, the location where it was found, one or more photographs of the item, a method for a true owner to contact an item's finder, and any other elements identified by the Department as necessary to facilitate the reunification of items with their owners.

Would enacting this bill be a good idea? Are there any changes that should be made? Evaluate it according to the various principles underlying the law of found property that we discussed in class. Be sure to address both arguments for and against the bill.