

Property
Spring 2017
Prof. Ford

Sample Take-Home Midterm Exam

This sample take-home midterm exam **does not count for your course grade**; instead, we will discuss it in class on Tuesday, March 21. This exam is a reasonable sample of the kinds of questions I will ask on the real midterm exam, which I will distribute on **Friday, March 24**, and which will be due on **Wednesday, March 29**.

This exam consists of **two short-answer questions**, each worth half of the grade. If this exam were real, it would have had strict time and word limits, requiring you to spend at most **four hours** completing this exam (I expect you will need less time than that) and using less than **500 words per question**.

Good luck!

Question 1

Sandra and Tim are next-door neighbors in Exeter, a picturesque town located in the state of New Vermont. Tim has owned and lived in his home for more than thirty years. Sandra purchased and moved into the home six years ago; the previous owners, who owned the home for two decades, were a couple who occupied the home only occasionally, spending most of their time in New York and London.

Sandra decides she wants a swimming pool, so she hires Grappone & Sons Pool Co. to build one in her backyard. They perform a survey and present Sandra with some options, and she chooses a particular shape and location in the yard for the pool.

Grappone & Sons workers begin digging a hole for the pool. On their second day digging, they hit a metal fuel-oil tank that extends from Tim's property onto Sandra's. The tank holds oil that powers Tim's heating system, along with an electric generator he uses during power outages that happen frequently due to Exeter's poor public services. The tank is located about two feet underground; about 30% of its volume is located on Sandra's side of the boundary line.

When the workers tell Sandra about the tank, she is surprised. She asks Tim about it, and he explains that when he had the tank installed, workers discovered a rock formation under his yard that made it hard to install the tank entirely underground on his property. He had three options at the time: have the rocky formation removed, at a cost of \$10,000 (plus the ordinary cost of installing the tank); have the tank installed above ground, where it would be unsightly; or install it underground so that part of it was under Sandra's land. He chose the third option, since it seemed to cause the fewest problems. The installation took three weeks and dug up both backyards. He did not consult with the then-owners, who were in London.

Sandra asks Tim to have the tank removed so she can build the pool. Tim refuses, asserting that he has adversely possessed the area occupied by the tank and underneath Sandra's yard. The tank has been there for fourteen years; the New Vermont limitations period for adverse possession is ten years.

Sandra sues Tim. How should the court rule?

Question 2

In his will, O devises Purpleacre "to A and B jointly for life, remainder to the survivor for life, then to the children of A and B and their heirs, but if any child of A and B ever becomes a lawyer, then to the World Wildlife Fund." At O's death, A and B are alive and have three children, C, D, and E, none of whom are lawyers; the World Wildlife Fund is a going concern.

At O's death, what is the state of title, ignoring the Rule Against Perpetuities?

If this state still follows the common-law Rule, does that change your answer?