

INSTRUCTIONS

You may use one 3x5 card of notes, handwritten and two-sided. No other notes or books are permitted. Use only the space allowed for your answers. Each question is worth one point unless otherwise stated. There are 80 points available on the test. Honor pledge: I have not discussed this examination with other students who took it at the regularly scheduled time.

---

*sign name*

---

*please print name*

1. True or False. An easement is a nonpossessory interest in real property that provides some right of use.
2. True or False. Farms are subject to municipal zoning.
3. True or False. Farms are not subject to county zoning, except for certain large hog farms.
4. List and discuss three ways that an easement may be created. (3 points)
  
5. Yes or No. Is negligence an issue when one property owner damages the developed property of another by undermining it?
6. An owner of a life estate who discovers oil and pumps it commits \_\_\_\_\_. (1 point) Explain. (1 points)

7. A \_\_\_\_\_ was formerly personal property that has become real property by attachment to the land.
8. True or False. Survivorship property may pass by will.
9. Using one word what right of a property owner is protected by a trespass action.
10. Name the rule that requires contracts for the sale of real property to be in writing. (1 point)
11. The \_\_\_\_\_ bars the use of prior or contemporaneous statements to contradict the terms of a written contract for the sale of real estate.
12. \_\_\_\_\_ is the term applied to the taking of private property by a unit of government that neither follows proper procedure nor compensates the private owners. (1 point) In North Carolina such a governmental unit will be liable not only for the damage to the property (value of the property taken), but also for \_\_\_\_\_ . (1 point)
13. Which of the following (in North Carolina) are examples of governmental takings?
- a. sewage discharge by a municipality into waters upstream from private land
  - b. modification of a highway such that the private landowner's access to the highway is blocked
  - c. temporarily using private property for parking state road construction equipment
  - d. all of the above
14. The U.S. Supreme Court has recognized at two basic types of governmental takings. List both types and explain the key differences. (4 points)
15. The Fifth Amendment to the Constitution and North Carolina law imposes two basic requirements when governments take private property. List both. (2 points)

16. How is the value of private property taken by the government determined? (2 points)

17. Which is not an element of adverse possession?

a. actual

b. permissive

c. hostile

d. open and notorious

18. Explain the concept of “color of title” in the context of adverse possession. (2 points)

19. True or False U.S. Forest Service land in North Carolina may be acquired by building a house on the land and living in it for 30 years.

20. True or False State highway land in North Carolina may be acquired by building a house on the land and living in it for 30 years.

21. How are subdivision covenants restricting the use of subdivision lots to single family residences enforced? (2 points)

22. True or False A recorded easement appurtenant passes with the property to which it is designed to serve.

23. True or False. Easements in gross are usually inherited.

24. True or False An optionee’s subsequent counteroffer revokes the original option.

25. True or False An optionee is not bound to purchase the subject property at the option price.

26. True or False A deed that is not delivered to the grantee is not effective.

27. Does a quitclaim deed give the grantee title to the real property described in the deed? Explain. (2 points)

28. Why are deeds of trust rather than mortgages used in North Carolina to provide security for debts where the collateral is real property? (2 points)

29. True or False A fixture is any personal property that is sold with the real property.

30. List two of the three key ownership rights in real property. (2 points)

31. A life tenant's alteration of the use of the property may constitute \_\_\_\_\_ for which the life tenant may be liable to the owners of the remainder interest.

32. Tenant farmer (TF) rents farmland from Landlord (LL) under an annual oral lease. TF grows tobacco on the rented land. LL sells the land to Developer (D), who immediately upon closing bulldozes the tobacco crop and begins building houses. TF asks D to pay her the value of the crop. D says that he purchased the property from LL without restriction and the tobacco was his to do with as he wished. 1.) Who wins? (1 point) 2.) Why? (2 points) 3.) If D loses in his dispute with TF, does he have any recourse against LL? (1 point) 4.) Why? (2 points)

Same question as above except that TF grows Xmas trees rather than tobacco: Is the result different and if so why? (2 points)

33. Olle and Anne, husband and wife, own Pleasant Acres as tenants in common. Olle died with a will leaving his share of Pleasant Acres to his friend, Dan. Who gets the property: Anne or Dan? (circle one) (1 point) Why? (2 points)

34. Olle and Anne, husband and wife, own Pleasant Acres as joint tenants in North Carolina. Olle died with a will leaving his share of Pleasant Acres to his friend, Dan. Who gets the property: Anne or Dan? (circle one) (1 point) Why? (2 points)

35. Olle and Anne, husband and wife, own Pleasant Acres as tenants by the entireties. Olle died with a will leaving his share of Pleasant Acres to his friend, Dan. Who gets the property: Anne or Dan? (circle one) (1 point) Why? (2 points)

36. Olle and Anne own their mobile home in North Carolina as tenants by the entireties. Anne ran up huge gambling debts by playing video poker in South Carolina. Anne's creditor obtained a judgment (assume its validity in NC) and now seeks to execute upon it by having the mobile home sold. Can the creditor have the mobile home sold? Yes or No (circle one) (1 point) Why? (2 points)

37. Which is an example of an easement in gross.  
a. an access road across the land of another  
b. a hunting right  
c. a prohibition against putting up a clothesline  
d. none of the above

38. Which is an example of an easement appurtenant.

- a. an access road across the land of another
- b. a hunting right
- c. a prohibition against putting up a clothesline
- d. none of the above

39. Which is an example of a restrictive covenant.

- a. an access road across the land of another
- b. a hunting right
- c. a prohibition against putting up a clothesline
- d. none of the above

40. A provision in a deed that provides that any house built on the property must contain 2,000 square feet of space or more is an example of:

- a. an easement
- b. a life estate
- c. a lease
- d. a restrictive covenant

41. Which is not an element of adverse possession.

- a. exclusive
- b. hostile
- c. permissive
- d. duration for the statutory period

42. Ian Farmer owns a vineyard of approximately 500 acres (in North Carolina in the County of County) that is bisected diagonally by a railroad right of way. The railroad had been operated by the Short Line Railroad for as long as anyone in the community can remember. Eight years ago Short Line Railroad was purchased by MegaCorp, which discontinued rail service on the line passing through Ian's property. Shortly thereafter Megacorp removed the rails and ties. Six years ago MegaCorp leased its rail corridor to Octopus Communications, which promptly buried a fiber optic cable under the corridor. MegaCorp has told Ian that it has a deed granting it a fee simple interest in the rail corridor through his farm; however, despite Ian's repeated requests, MegaCorp has never provided a copy of this deed to Ian. It is not recorded in the office of the County register of deeds. In fact the only deed to the corridor that is recorded is an 1845 deed that grants the Short Line Railroad an easement through Ian's property that states, "said easement shall be used only for the purposes of operating a railroad, and, should such use cease, said easement shall be forthwith and forever extinguished..."

Five years ago the County board of commissioners enacted an ordinance “pursuant to authorities granted it under The National Trails System Act to convert all abandoned rail corridors within the borders of the County of County to part of the County Greenway System.” Since that time County has included the rail corridor through Ian’s farm on its greenway system map. Since that time the corridor has been heavily used by hikers. Much to Ian’s annoyance, and despite his “keep out” signs, some hikers picnic in his vineyard. His vineyard is particular popular with local children when the grapes are ready to harvest.

A friend who had taken a course in agricultural law at North Carolina State University told Ian that he should talk to a lawyer. Ian is in your law office for a consultation. Please identify and explain all legal issues. (10 points)