

Real Property Issue outline for final exam Spring 2012

Ornell

Question 1

Constitutions

Enumerated	Plenary
U.S. Constitution	California Constitution
1 st Amendment	Article 1 Section 2
5 th Amendment	Article 1 Section 7
10 th Amendment	Article 1 Section 24
14 th Amendment	Article 1 Section 7

Substantive due process. Reasonably related to a legitimate governmental interest.

Procedural due process notice, opportunity to be heard, record

Euclid v. Anchor Realty

Public health, safety & welfare

Zoning

General plan Specific plan

Amendments Variances use or bulk Conditional use permit (CUP) Spot zoning

Legal nonconforming use.

Amortization

Eminent Domain: explicit taking regulatory taking

Take for public good just compensation. (Should mention the Kelo issue – little pink houses)

Inverse condemnation

Invidious discrimination

Free speech

An opportunity is different than a right. Change in zoning is not a taking vs. vested right

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Question 2

Dear Mr. Frank,

I have more questions than answers for you. But, each will help direct you to potential/possible solutions. If you physically viewed the property prior to purchase you must have crossed the property of another to do so. Unless you were trespassing, there may well be an easement....

Easement

Express

Grant or reservation

(the easement would appear on the neighbor's deed not yours)

Purchase an easement

Easement appurtenant

Few properties are truly landlocked

The law favors land being put to use

Prescription

Necessity

Implied from Prior existing use

Irrevocable Licenses or "Easements by Estoppel"

Quit claim deed vs. warranty deed, grant deed

Title insurance

Title opinions abstracts

Covenants of Title.

Marketable title

