

Memorandum

To: Real Property Students
From: Professor Belle
Date: Wednesday, December 19, 2018
Re: Midterm Examination

This is a closed book and closed notes exam. Please abide by all that this implies.

Use only one side of each page. If you type, type double space. If you write, write legibly.

Your exam consists of two essay questions and 20 MBE questions. The total test time is **three (3) hours**. You will have two hours to complete the essay questions. After a short break, during which all exams must be turned-in at the Law School office, the whole class will be given the MBE questions. You will have one (1) hour to complete the MBE questions.

For the essay questions, you will be expected to identify the legal issues raised in the fact patterns and apply the appropriate rules of law.

For the multi-state/multiple choice questions, you are expected to choose the best of alternative answers according to generally accepted common law views, without consideration of any statutes.

Good luck!

QUESTION ONE
(One Hour)

On January 1, 2011, Landlord (“L”) leased a commercial building to Tenant (“T”), for a term ending December 31, 2015, at an annual rent of \$120,000. The lease provided that any assignment or sublease must have L’s consent. On July 1, 2015, by a written transfer document, T transferred “the remaining term of the lease, through 11:59 p.m., December 31, 2015” to SubTenant (“ST”). L agreed to the transfer. ST occupied the premises through November 30, 2015, but never paid any rent. On January 15, 2016, L contacted T and demanded the unpaid rent. T refused, arguing that the transfer was intended as a “complete transfer of the original lease,” and, therefore, the transfer relieved T of any further obligation under the original lease.

- a) What is the nature of the transfer from T to ST, and what type of subtenant is ST?
- b) Can L recover any unpaid rent from T? If so, how much, and under what theory or theories of liability?
- c) Can L recover any unpaid rent from ST? If so, how much, and under what theory or theories of liability?

QUESTION TWO
(One Hour)

Assume that in the beginning, the grantor (“O”) holds the property in fee simple absolute.

Considering each of the following conveyances independently:

- a) Identify and explain each present interest (“PI”) created by the conveyance.
- b) Identify and explain each future interest (“FI”) created by the conveyance.
- c) Evaluate, as appropriate, the validity of all interests under the Rule Against Perpetuities (“RAP”)

Conveyance 1: “To A and her heirs, so long as liquor is never sold on the premises”

Conveyance 2: “To A, but if liquor is ever sold on the premises, O may retake possession”

Conveyance 3: “To A, but if liquor is ever sold on the premises, then to B and his heirs”