

Opening Assignment

Assume you were to write a song and show it to me. I then record the song without your permission. I become rich and famous, deny that I ever met you, and you die penniless and alone. Can I do this? Why or why not? Explain your answer.

PROPERTY OWNERSHIP

Property – What is it?

- ◎ Thing (tangible or intangible) that is subject to ownership
- ◎ Rights that go with ownership
 - right of use and enjoyment
 - right of disposal (sell, give away, destroy)



Two basic types of Property

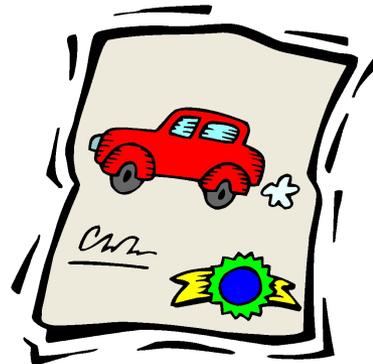
- Real Property

- Includes
 - Land, and
 - Anything “permanently” attached to land



- Personal Property

- Includes
 - Movable Objects
 - Intangible Items



Fixtures

- Personal property that has become so closely associated with real property that it becomes part of the real property
- Things to consider
 - Difficulty of removal
 - Necessity to the real property
 - Intention of the parties

Boundaries of Ownership

- Based on Roman legal principles
- *cuius est solum eius est usque ad coelum et ad inferos* (**for whosoever owns the soil, it is theirs up to the sky and down to the depths**)
- The right does not extend though to more than is 'necessary for the ordinary use and enjoyment of the land and structures upon it

Acquiring Property

- Contract
 - When you purchase or trade for an item of property



Acquiring Property

- Gift

- Requires

- intent to make a gift
 - delivery
 - acceptance

- Inheritance

- Inheritance is a gift made after death, it must be made by will



Acquiring Property

- Intellectual Labor
 - Copyright – original writing or recording
 - Patent – invention of product or process
 - Trademark – logo or other identifying characteristic



Acquiring Property

- Accession
 - When you own the an item of property, you also own the natural returns from the property



Up for Grabs - Part 1



Opener

Article: Finders, Keepers - Article in Canvas,
look under “Assignments” - Answer on website
Quick Response form as usual

OCCUPANCY: ACQUIRING PROPERTY BY FINDING

NOT THE LAW

- Finders/Keepers
- Possession is 9/10 of the law



How did it get there before you found it?



- Lost – accidentally left
 - Belongs to finder after reasonable efforts to find owner
- Mislaid – intentionally placed and left
 - Belongs to owner of the place where left after reasonable time
- Abandoned – intentionally left
 - Belongs to the person who claims it and exercises control over it

Law of capture

- Determines ownership of moving/flowing resources including groundwater, oil and gas, wild animals, etc.
- The first person to “capture” (control) such a resource owns that resource



Up for Grabs - Part 2



Opening Assignment

Martin owned a 20-unit apartment building. Upon inspection, the city determined that the building did not meet the building code because it did not have fire doors in the hallways. The city informed Martin that he could not rent the apartments until he had the fire doors installed.

Can the city do this? Why should they? Explain.

Types of Ownership

- Severalty
 - Single owner owns entire property
- Co-Ownership
 - Joint Tenancy – multiple owners own equally



Marital Property

○ Separate

- owned before marriage
- acquired by individual gift during marriage

○ Community

- All property acquired during marriage
- Separate property co-mingled with community property



Laws concerning property

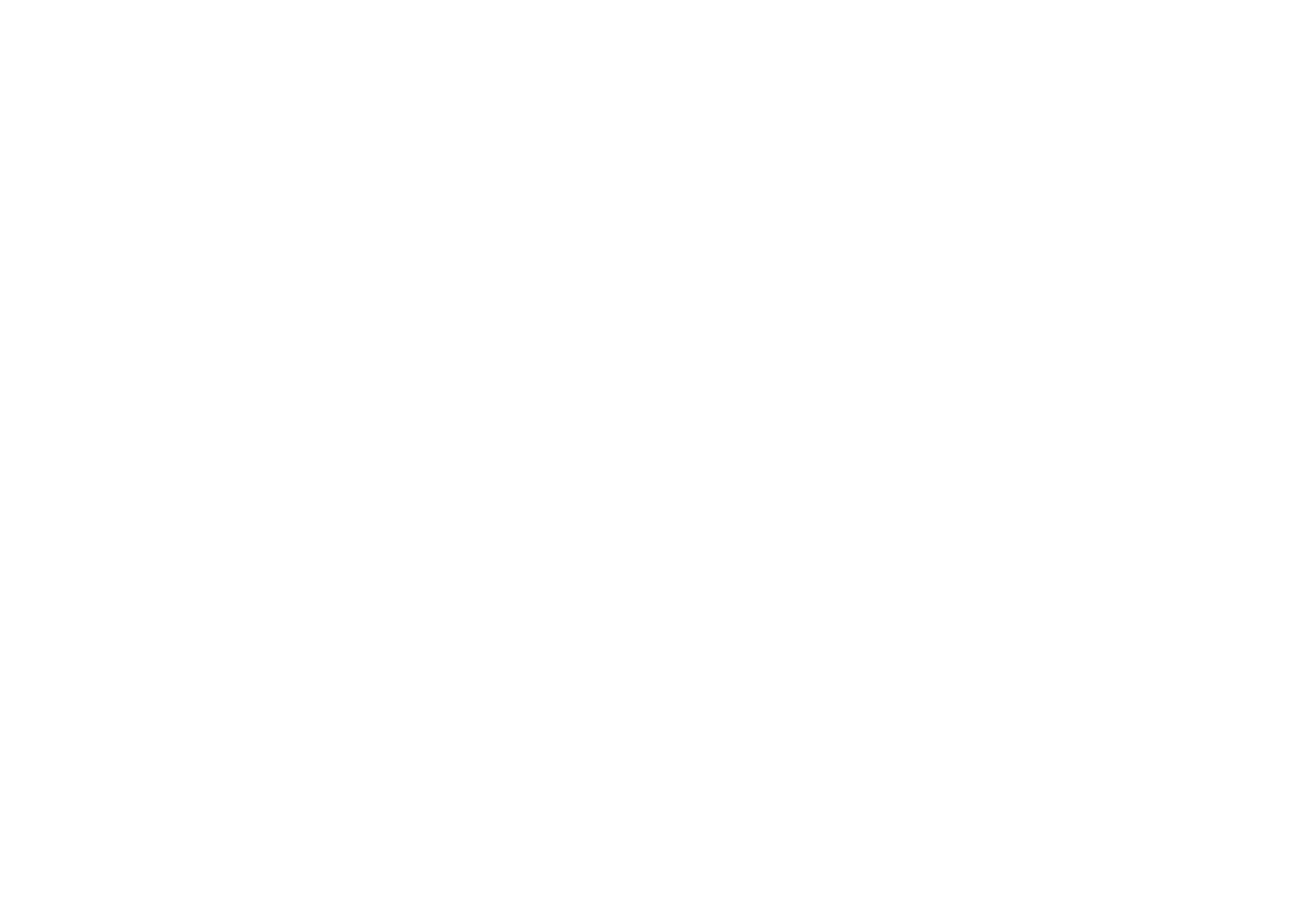
- Zoning
 - Cities can restrict land/building uses
- Certificate of Occupancy
 - Cities inspect business properties before move-in
- Code inspections
 - Homes – during construction
 - Commercial buildings – periodic safety inspections

Homeowner Associations (HOAs)

- When you buy into these properties
 - Condominiums
 - Planned communities
- You are subject to the Covenants, Conditions and Restrictions (CCNRs) of the community
- Failure to comply can result in
 - loss of use of facilities
 - fines
 - foreclosure

Eminent Domain

- Eminent Domain
 - Government can take private property for
 - “Public Use”
 - Public Safety Issues
 - Must pay “fair market price”
- Condemnation Proceeding – court hearing to take property by eminent domain



Opening Assignment

A friend lets you borrow her iPhone. As you are walking down the hall holding the iPhone and listening to your favorite song with headphones on, another student bumps into you. You drop the iPhone and it breaks.

Are you legally responsible for the cost of repairing or replacing it? Why or why not? Ethically what should you do?

BAILMENTS

Characteristics of Bailments

- Subject of bailment must be personal property
- Bailor gives possession AND control
- Parties must intend that the goods be returned to bailor

B 6-059

**PLACE ON DASH
CLASSIFIED PARKING SYSTEM**

**“THIS CONTRACT LIMITS OUR
LIABILITY-READ IT.**

This is a license to park only. No bailment is created. In accepting this contract, Holder agrees to use Operator's garage or lot at Holder's own risk. The owner(s) and operator(s) of this parking facility hereby specifically disclaim any responsibility, express or implied, to protect against the loss of or damage to your vehicle or its contents. No employee or agent of the owner(s) or operator(s) can change this agreement orally or otherwise. Your acceptance of this ticket shall constitute an acknowledgement and acceptance of this condition on your right to use our parking facility and that you have read and understand same. Operator's attendant is on duty for collection of fee only and not for the purpose of providing security services. Please lock your car and take your keys.

**NO FREE PARKING ANYTIME
PAY BOX WHEN NOT ATTENDED
TICKET IS NOT TRANSFERABLE
NO IN AND OUT PRIVILEGES.”**

Common Bailments

- Bailments for Transport
 - UPS, FedEx, Mayflower, etc.
- Bailments for Hire
 - Rentals of goods, equipment, vehicles
- Bailments for Services
 - Repair Shop, Cleaners, etc.

Types of Bailments

- Voluntary
 - Both parties agree to the bailment
- Involuntary
 - no consent by the bailee

Bailee's Duty of Care

- Voluntary
 - Duty of Reasonable Care
- Involuntary
 - Minimal Duty
 - Liable only for intentional harm

Bailor's Duty of Care

- Duty to provide goods fit for the intended purpose
- Duty to inspect goods
 - Failure to inform of known defects, or
 - Reasonably discoverable defects
- Actual knowledge of defect by bailee is a defense (assumption of risk)

Ending a Bailment

- Return of Property
- Completion of Purpose
- Destruction of Property

Case problem 1

Buz asked his neighbor Hazel if he could borrow her chainsaw. Hazel had a feeling that something was wrong with the chainsaw, but she couldn't point to anything concrete. She didn't say anything to Buz. Buz hit a knothole while cutting a log, the saw bucked back and gashed his shoulder.

Case problem 2

Bortez left a case with \$30,000 worth of watches inside in the hotel checkroom. The clerk gave him a receipt that said in fine print: “Not liable for loss or damage from any cause beyond a maximum of \$100.” Bortez, in a hurry, stuffed the stub in his pocket without reading it. The clerk left to go to the restroom, and when he returned, the case was gone.

Case problem 3

Widdington inherited an old 90-foot navy patrol boat. She delivered it to Ol' Jon Silver's Shipyard, located near the oceanfront. Widdington contracted with Silver's to convert the boat into a houseboat for \$130,000. After the work was completed, but before she came to get her boat, a tidal wave destroyed the shop and all the boats in the immediate vicinity.

Case Problem 4

Thomas took his vintage Martin guitar to a repair shop to have the bridge and strings replaced. While it was in the shop, the bathroom of the store next door flooded and the carpet where the guitar was propped against the wall got wet. The moisture from the carpet severely damaged the guitar, costing \$750 to fix. Is the repair shop liable to Thomas?



Opening Assignment

Carla signed a one year lease to rent an apartment from Norm. After Carla moved in, she found that several other tenants were noisy. People were coming and going at all hours and drinking alcoholic beverages throughout the day. There was much arguing and shouting of profanities. Carla complained to Norm, but Norm did nothing.

Should Carla be able to move out and stop paying rent? Explain.

LANDLORD & TENANT

What is a Lease?

- A contract in which one party receives temporary possession of another's real property in exchange for rent
- Landlord – Lessor
- Tenant – Lessee

Types of Tenancy

- Periodic Tenancy
 - Usually by written lease
 - Sets specific period of time, i.e. 6 months, 1 year, 5 years, etc.
 - Typically converts into month-to-month at end of period
- Month to Month Tenancy (Tenancy at Will)
 - Can be a verbal contract
 - Lease renews each month as the rent is paid
 - Terminable at the will of either party

Rights of Tenant

- Possession
 - Exclusive of all other persons
 - Landlord may enter only:
 - For purpose of inspection
 - With reasonable notice
 - At reasonable times
- Use in the manner specified in the lease
- Assignment (Sublease)

Duties of Tenant

- To pay rent
- To reasonable care for the property
 - Not liable for ordinary wear and tear
 - Not liable for structural repairs
- To satisfy all other terms of the lease

Rights of Landlord

- Right to receive rent payments
- Right to regain property and fixtures

Duties of Landlord

- Duty to maintain
 - Structural repairs – required to make premises fit for ordinary living
 - Exterior and common areas
- Duty to pay taxes

Termination of Lease

- As stated in lease
- Requires notice if month-to-month
 - Usually 30 days
 - Must be in writing

Eviction

- Removal for nonpayment of rent or other violation of lease
 - Notice and hearing required
- Constructive Eviction
 - Tenant **can** move out if Landlord fails to maintain property in livable condition
 - File suit to prevent Landlord from getting a judgment against you

People's Court - Terrified Tenants



Opening Assignment

Pablo rented an apartment from Cedar Park Apartments with a rent of \$450/month. When he got married 6 months later, his wife moved in with him. He didn't notify his landlord, and three months later, when the landlord found out, he told Pablo that he owed an extra \$100/month for those three months and that his rent was going to increase to \$600/month after that. Can he do this? Explain your answer.

Security Deposit

Sec. 92.109. LIABILITY OF LANDLORD. (a) A landlord who in bad faith retains a security deposit in violation of this subchapter is liable for an amount equal to the sum of \$100, three times the portion of the deposit wrongfully withheld, and the tenant's reasonable attorney's fees in a suit to recover the deposit.

Security Deposit

(b) A landlord who in bad faith does not provide a written description and itemized list of damages and charges in violation of this subchapter:

(1) forfeits the right to withhold any portion of the security deposit or to bring suit against the tenant for damages to the premises; and

(2) is liable for the tenant's reasonable attorney's fees in a suit to recover the deposit.

Security Deposit

(c) In an action brought by a tenant under this subchapter, the landlord has the burden of proving that the retention of any portion of the security deposit was reasonable.

(d) A landlord who fails either to return a security deposit or to provide a written description and itemization of deductions on or before the 30th day after the date the tenant surrenders possession is presumed to have acted in bad faith.