

## REAL PROPERTY

## ESTATES

## HISTORY

## • FEUDALISM

1. **Tenants-in-Chief**

- a. Supporters of William of Normandy
- b. Received parcels of land in exchange for providing services to king, including military and economic support

2. **Subtenants**

- a. Received parcels of land from tenants-in-chief in exchange for services

3. **Feudal Relationships**

- a. Parcels of land further subdivided
- b. Possessor was at bottom of feudal hierarchy
  - i. Upon death and without heirs, possession of land reverted back to lord
  - ii. Upon breach of promise or felony, possession was forfeited to lord

4. **Statute Quia Emptores**

- a. Further continuation of fee-simple hierarchy abolished
- i. Tenants given right to alienate land, i.e. substitute another tenant without lord's consent, with services being apportioned

• **DEFINITION OF ESTATE**

- 1. Interest in land that is currently or may become possessory, measured by some period of time

## FEE SIMPLE

• **COMMON LAW**

- 1. Presumption of Life Estate unless words of limitation and inheritance to the contrary

• **DURATION FOREVER**

- **NO RESTRAINT ON ALIENABILITY**

• **MODERN TREND**

- 1. Courts favor Fee-Simple Absolute over Defeasible Fee

## FEE TAIL

• **COMMON LAW**

- 1. To "A and the Heirs of his Body"

2. **Lineal Heirs**• **DURATION**

- 1. Lasts until Owner's blood line ends

• **INHERITABLE**

- 1. Restricted alienability to Grantee's descendants

• **MODERN STATUTES [NOT UNIFORM]**

- 1. Fee Simple in Grantee
  - a. Excessory interest in fee simple to become possessory if Grantee dies without issue
- 2. Life Estate in Grantee
  - a. Fee-Simple Remainder in issue
- 3. No issue (reverts to Grantor)

## LIFE ESTATE

• **DURATION FIXED BY LIFE OF GRANTEE**

- 1. **Per Auctre Vie (Life of another)**
  - a. Modern Law: If Occupant dies before measuring life, life estate passes to Occupant's heirs

• **COMMON LAW**

- 1. **Curtsey (Husband's Life Estate)**
- 2. **Dower**
  - a. Wife took 1/3 Life Estate in each parcel of realty Husband was seized during marriage

• **REVERSION TO REMAINDERMAN AT DEATH OF NAMED GRANTEE**

- i. Restricted alienability

• **MODERN STATUTES**

- 1. **Dower & Curtsey abolished**
  - a. Upon death, surviving spouse takes elective share - 30% of net assets
- b. Upon divorce, property is divided under principle of equitable distribution

NONFREEHOLD  
[LEASEHOLD] ESTATES• **TENANCY AT WILL**

- 1. No fixed duration
  - a. Terminated at any time by agreement of both Landlord and Tenant

2. **Termination by operation of law with notice**

- a. Sale of property
- b. Death of either party

• **PERIODIC TENANCY**

- 1. Automatic renewal
  - a. Example: Month-to-month or year-to-year
  - b. Termination by notification equal to terms
  - i. Notice must specify the date of termination
  - ii. Exception: Tenancy of 1 yr. required 6 mos. notice
- 2. **Modern Trend: Governed by Statute**
  - a. (E.g., Lease for year-to-year requires 1 month notice to terminate)

• **TENANCY AT SUFFERANCE**

- 1. **Wrongful hold-over**
- 2. Landlord has option to evict Tenant or hold Tenant to another term

• **TENANCY FOR YEARS**

- 1. Specific period of time
  - a. Generally fixed by calendar but may be terminable upon some event
  - b. Termination at end of period without necessity of notice
- 2. **More than one year**
  - a. In writing
  - b. Subject to Statute of Frauds

• **LANDLORD'S RIGHTS AND DUTIES**

- 1. **Common Law**
  - a. No liability for subsequent arising conditions
  - b. No duty to maintain
- 2. **Modern Law**
  - a. **Assumption of repairs (not universal)**
    - i. Reasonable care required
    - ii. Not for commercial leases
  - b. **Common passages**
    - i. Duty to exercise ordinary care
    - c. Short term
      - i. Warrants premises in good repair
      - d. **Liability for personal injuries**
        - i. Duty to disclose latent defects

- 3. **Duty not to interfere with Tenant's quiet enjoyment**
  - a. Duty not to permit a nuisance
  - b. Not responsible for acts of Tenants interfering with other Tenants, except where existence of legal ability has been granted

• **TENANT'S RIGHTS AND DUTIES**

- 1. **Entitled to possession**
- 2. **Residential Tenant entitled to Implied Warranty of Habitability**
  - a. Modern trend holds suitability implied in commercial leases
- 3. **Duty to pay rent**
- 4. **Liability for waste**
  - a. Destruction b. Decay c. Alteration
- 5. **Duty of reasonably good repair**
  - a. **Liability as third parties**

• **REMEDIES FOR BREACH OF IMPLIED WARRANTY OF HABITABILITY**

- 1. **Constructive Eviction**
  - a. Tenant may terminate lease, leave premises and not pay further rent when, through the fault of landlord, there has been a substantial interference with the use and enjoyment of tenant's leased premises
- 2. **Retaliatory Eviction**
  - a. Tenant who claims violation of Housing Code and reports violations to authorities, and withholds rent, cannot be evicted as a retaliation for reporting

## RIGHTS OF POSSESSOR

• **LATERAL SUPPORT**

- 1. **Rights to have land supported in natural state by adjacent owners**
  - a. **Liability for damage to building if land would have collapsed in natural state**

• **SUBJACENT SUPPORT**

- 1. **Rights to have land supported in natural state by owners of interest under surface**
  - a. **Liability for damages if land would have collapsed in natural state**

• **WATER RIGHTS**

- 1. **Riparian right of each owner to use all water needed for domestic purposes**
  - a. Commercial limited to reasonable use
- 2. **Prior Appropriation (First in time, first in right)**

## TYPES OF TENANCY

• **JOINT**

- 1. **Right of Survivorship**
  - a. Survivor retains right in property no longer subject to interest of deceased co-tenant
    - i. Right of survivor takes precedence over devise under will or court creditors of deceased co-tenant
  - b. Some jurisdictions recognize only tenants in common where survivor's remainder in whole cannot be destroyed without consent
- 2. **Unities required**
  - a. Time, title, interest and possession
  - b. **Modern Statutes**
    - i. Unities + Owner's intent clearly expressed in Deed
- 3. **Incidental Severance**
  - a. **Creditor's lien**
    - i. Individual's rights subject to individual creditors
  - b. **Judicial sale**
    - i. No severance
  - c. **Disturbance of unities creates Tenants in Common**
    - i. Joint tenant's conveyance of interest severs joint tenancy with respect to that share
      - (a) Recipient of conveyance holds share as Tenant in Common with remaining joint tenants
- 4. **Voluntary Partition**
  - a. **Mortgage**
    - i. **Title Theory (Minority)** = Execution causes severance
      - (a) Common Law: Legal title conveyed to bank and borrower keep equity of redemption to receive legal title back upon payment of mortgage
    - ii. **Lien Theory (Majority)** = No title passes as long as contract in writing and capable of specific performance
      - (a) Bank holds security interest and not legal title
  - b. **Lease**
    - i. Common Law: Unity of interest is destroyed, thereby severing joint tenancy
    - ii. **Modern Statutes: Surviving joint tenant takes the whole, thereby not severing joint tenancy**
      - (a) **Jurisdictional Split: Whether surviving joint tenant takes subject to lease on 1/2 interest or whether survivor holds whole not subject to lease**

- 5. **Equal right to possess whole subject to rights of other tenants**
- **BY THE ENTIRETY**
  - 1. **Husband & Wife**
  - 2. **Unities required**
    - a. Time, title, interest, possession and person
    - b. Deed must refer to parties' marital relationship
  - 3. **By the whole**
    - a. No right of partition
  - 4. **Severance**
    - a. Right of Survivorship
    - b. Divorce
    - c. Execution proceeding in favor of joint creditor
    - d. Immune from individual creditors but federal tax lien may attach to property [U.S. v. Craft]

• **IN COMMON**

- 1. **No Right of Survivorship**
  - a. Interest passes to heirs of deceased tenant
- 2. **Ownership by part but right to possess entire property unless restricted by agreement**
  - a. Interest in property proportionate to consideration paid by each tenant
- 3. **Freely alienable**
- 4. **Subject to claims of creditors**
- 5. **Modern Statutes**
  - a. Presumption of tenancy in common if conveyance fails to specify form of concurrent ownership
- **GENERAL RULES OF ACCOUNTABILITY**
  - 1. **Statute of Anne**
    - a. Contribution of 3rd party charges
  - 2. **May deduct reasonable expenses (Taxes, Utilities, etc.)**
    - a. Account to co-tenants for rents/profits
  - 3. **Life Tenant - pays taxes, assessments, and interest on mortgage (limited to fair market value of rent)**
  - 4. **Remainderman - pays principal and insurance**

# Real Estate Law Study Guide

**Michael Brown**



## **Real Estate Law Study Guide:**

**2020 Georgia AMP Real Estate Exam Prep Questions & Answers** Real Estate Exam Professionals Ltd., Pass the 2020 Georgia AMP Real Estate Salesperson Exam effortlessly on your 1st try In this simple course which includes both the Georgia state and AMP question and answer exam prep study guide not only will you learn to pass the state licensing exam you will also learn How to study for the GA exam quickly and effectively Secrets to Passing the Real Estate Exam even if you do not know the answer to a question How to tackle hard real estate MATH questions with ease and eliminate your fears Tips and Tricks from Real Estate Professionals professional exam writers and test proctors It will also answer questions like Do I need other course materials from companies like Allied Real Estate School How about Anthony Real Estate School or Kaplan Real Estate School Are they even good schools to attend What kinds of questions are on the Georgia Real Estate License Exam Should I use the GA Real Estate License Exams for Dummies Book This Real Estate Study Guide contains over 1200 real estate exam questions and answers with full explanations It includes the Georgia State Specific portion the AMP portion real estate MATH ONLY section and real estate vocabulary only exams You will receive questions and answers that are similar to those on the Georgia Department of Real Estate Exam You deserve the BEST real estate exam prep program there is to prepare you to pass and it gets no better than this The Georgia Real Estate Salesperson Exam is one of the hardest state test to pass in the United States We have compiled this simple exam cram book that quickly and easily prepares you to take your state licensing exam and pass it on the 1st try with the AMP exam Our Real Estate Exam Review is designed to help you pass the real estate exam in the quickest easiest and most efficient manner possible Throw away your real estate course test books and class notes this is all you need to pass **Real Estate Law** James Karp, Elliot I. Klayman, Frank F. Gibson, 2003 This comprehensive survey of real estate law is known for its numerous learning aids and easy to understand writing style Real Estate Law incorporates the latest legal trends numerous case studies and multiple features to stimulate classroom discussion and enhance material retention Highlights Student Study Guide CD ROM with interactive case studies help students apply complex principles while giving adopters a platform for classroom assignments The Changing Landscape sections explore the future of real estate law Key terms with page references allow for quick review of important concepts

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- 3 Practice Questions Test your knowledge and hone your skills with practice questions for each unit With detailed explanations you'll learn from your mistakes and refine your understanding
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defined as any defined section of land and the improvements within its boundaries created by humans So it would be a lot a farm a zone or any other designation with any improvements such as sewer gas water power or any buildings A guide for how any agency or department handles real property would be of immense benefit to customers looking to purchase lease or rent such properties that the agency or department may have under its jurisdiction Many of the problems associated with the purchase of such properties are related to misinformation or the lack of what that information means A real property guide when correctly constructed would clean up the process and facilitate the movement of property from one hand to another

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### **Table of Contents Real Estate Law Study Guide**

1. Understanding the eBook Real Estate Law Study Guide
  - The Rise of Digital Reading Real Estate Law Study Guide
  - Advantages of eBooks Over Traditional Books
2. Identifying Real Estate Law Study Guide
  - Exploring Different Genres
  - Considering Fiction vs. Non-Fiction
  - Determining Your Reading Goals
3. Choosing the Right eBook Platform
  - Popular eBook Platforms
  - Features to Look for in an Real Estate Law Study Guide
  - User-Friendly Interface
4. Exploring eBook Recommendations from Real Estate Law Study Guide
  - Personalized Recommendations
  - Real Estate Law Study Guide User Reviews and Ratings
  - Real Estate Law Study Guide and Bestseller Lists

5. Accessing Real Estate Law Study Guide Free and Paid eBooks
  - Real Estate Law Study Guide Public Domain eBooks
  - Real Estate Law Study Guide eBook Subscription Services
  - Real Estate Law Study Guide Budget-Friendly Options
6. Navigating Real Estate Law Study Guide eBook Formats
  - ePub, PDF, MOBI, and More
  - Real Estate Law Study Guide Compatibility with Devices
  - Real Estate Law Study Guide Enhanced eBook Features
7. Enhancing Your Reading Experience
  - Adjustable Fonts and Text Sizes of Real Estate Law Study Guide
  - Highlighting and Note-Taking Real Estate Law Study Guide
  - Interactive Elements Real Estate Law Study Guide
8. Staying Engaged with Real Estate Law Study Guide
  - Joining Online Reading Communities
  - Participating in Virtual Book Clubs
  - Following Authors and Publishers Real Estate Law Study Guide
9. Balancing eBooks and Physical Books Real Estate Law Study Guide
  - Benefits of a Digital Library
  - Creating a Diverse Reading Collection Real Estate Law Study Guide
10. Overcoming Reading Challenges
  - Dealing with Digital Eye Strain
  - Minimizing Distractions
  - Managing Screen Time
11. Cultivating a Reading Routine Real Estate Law Study Guide
  - Setting Reading Goals Real Estate Law Study Guide
  - Carving Out Dedicated Reading Time
12. Sourcing Reliable Information of Real Estate Law Study Guide
  - Fact-Checking eBook Content of Real Estate Law Study Guide
  - Distinguishing Credible Sources
13. Promoting Lifelong Learning

- Utilizing eBooks for Skill Development
- Exploring Educational eBooks

#### 14. Embracing eBook Trends

- Integration of Multimedia Elements
- Interactive and Gamified eBooks

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web nicola conosciuto come san nicola di bari nasce in una zona dell'attuale turchia il 15 marzo del 270 e si festeggia ogni anno il 6 dicembre la storia di san nicola è diventata leggendaria associando il santo a santa claus il babbo natale dei paesi nordici

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web dec 6 2020 la storia di san nicola il santo più amato dai bambini e di come sia nata la leggenda di babbo natale il mito di babbo natale nasce dalla leggenda di san nicola vissuto nel iv secolo che si festeggia tradizionalmente il 6 dicembre secondo la tradizione san nicola regalò una dote a tre fanciulle povere perché potessero andare sposate

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web nov 26 2021 queste leggende sono di origine medievale e si basano su un fatto storico durante la sua vita nicola salvò tre cittadini di mira da un'ingiusta condanna a morte liberandoli dalle catene e offrendo la sua vita al carnefice in cambio di quella dei tre innocenti idee regalo per natale

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web oct 8 2017 santo nicola san nicola di bari detto anche san nicola di myra o san nicolò è venerato sia dalla chiesa cattolica che da quella ortodossa per questa ragione il santo è anche conosciuto in altre parti del mondo come san nikolaus o san nicolas si festeggia in svizzera austria belgio e francia

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web dec 2 2020 san nicola è passato alla storia come un uomo di immensa bontà sempre pronto ad aiutare i poveri e sfortunati anche per questo uno dei momenti più famosi e ripresi dalla tradizione riguarda l'aiuto miracoloso che offrì a tre sorelle cadute in disgrazia leggi anche perché si fa l'albero a natale 5 curiosità su questa tradizione natalizia

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patrono di bari si narra che regalasse cibo e denaro ai poveri il mito