

**Property II Examination**  
**May 6, 2023**  
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**Instructions:**

You will have three hours to complete this exam. There are two essay questions. Each question is worth 50% of the final score. Each question has a 1,000-word limit. Anything you write past 1,000 words will not be read. Both answers combined should not total more than 2,000 words.

Please use the word-count (not the character count) feature to check the length of each answer. The **character count** for the exam will be visible just above the formatting icons on your screen. By clicking on the document icon, you may view the **word count**. If you hand-write the exam, or can't utilize the word-count feature, please do a manual word count.

The exam is completely open-book. You can use anything you wish, so long as that it was created *before* the distribution of this exam. Obtaining any new information from anyone or anything or any AI generative technology *after* the exam is prohibited.

**Complete Part I first, then Part II second.**

**Please don't begin until the proctor signals that the exam has begun.**

Good luck!

## **Part I (50%)**

**Instructions:** In the Kingdom of Encanto, all the people are fantastical and magical. You are a law clerk to the Chief Judge of the Encanto Trial Court. You are asked to write a memorandum of no more than 1,000 words to address five property questions. Encanto follows all common law property rules. All limitation periods are five years. Encanto has a race-notice recording statute. Encanto follows the United States Constitution.

### **Question #1**

In 1970, Abuela arrived in the Kingdom of Encanto with her three infant children: Julieta, Pepa, and Bruno. Abuela and her children settled on Casacre, which they did not own. Abuela built a home, known as the Casita. For the next five decades, Abuela and her three children continued to live on Casacre. In 2020, Abuela granted an easement to Julieta, Pepa, and Bruno, promising them the right to live in the Casita for the duration of their lives. However, in 2021, Abuela and Bruno had a huge fight. Abuela sought to oust Bruno from Casacre. Bruno asserted that he had the right to stay on Casacre. In 2021, Bruno sued Abuela to quiet title on Casacre.

1. How should the Encanto Trial Court resolve this dispute?

### **Questions #2 and #3**

Abuela changed her mind, and allowed Bruno to stay in the Casita. Still, Bruno no longer wished to be near Abuela. Bruno began to live in between the walls in the Casita. And Bruno became friends with a family of rats. Rats are known to spread diseases, and chew on the roof and foundations of houses. The Encanto Legislature learned of the rat problem on Casacre, and enacted a new statute, the Beware of Rats Under New Orders Act. The BRUNO Act, as the statute is known, has two sections.

**Section 1:** All property owners in Encanto are required to place government-provided rat traps on the floor wherever rats are found.

**Section 2:** All property owners in Encanto are required to allow government exterminators to randomly inspect their homes for rats twice per year. These one-hour inspections will occur on January 15 and June 15 of each year.

In 2022, Abuela filed suit, arguing that the statute violates the Takings Clause of the Fifth Amendment.

2. Assess the constitutionality of Section 1 of the BRUNO Act under the Takings Clause of the Fifth Amendment.
3. Assess the constitutionality of Section 2 of the BRUNO Act under the Takings Clause of the Fifth Amendment.

#### **Question #4**

In 2023, Bruno found three documents that were hidden in the walls of Casacre. He had never seen these documents before.

##### **Document #1**

January 1, 1980

~~I, Abuela, as the sole guardian of my three minor children, convey to Bruno title to Casacre in fee simple. /Abuela's signature/~~

I, Abuela, revoke this transaction. We don't talk about Bruno.

(The first sentence conveying Casacre to Bruno appears to have been crossed out by Abuela).

##### **Document #2**

January 1, 1981

I, Abuela, as the sole guardian of my three minor children, convey Casacre to Abuela in fee simple.  
/Abuela's signature/

##### **Document #3**

The Clerk of Encanto duly recorded the deed, dated January 1, 1981, for Casacre.

After Bruno finds these three documents, he runs to the Clerk of Encanto's office, and records the January 1, 1980 deed. Then Bruno files suit against Abuela to quiet title on Casacre. Abuela had apparently forgotten about these deeds from four decades ago. Abuela now asserts that she owns Abuela in fee simple.

4. How should the Encanto Trial Court resolve this dispute? Your answer to Question #4 should not discuss the facts presented in Question #1. Likewise, your answer to Question #1 should not discuss the facts presented in Question #4. These questions should be answered independently.

#### **Question #5**

How do property rights serve human values?

## **Part II (50%)**

**Instructions:** All of the instructions from Part I apply to Part II. You are asked to write a memorandum of no more than 1,000 words to address five property questions.

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### **Questions #1, #2, and #3**

Abuela has three granddaughters, who are the daughters of Julietta: Isabela, Luisa, and Mirabel. Abuela owns Floracre in fee simple. Isabela lives on Floracre with Abuela. Isabela has magical powers that allow her to create flowers. But Isabela loses control of her powers, and causes an uncontrollable growth of flowers. The flowers are creeping up the walls and filling all of the floors. It is becoming impossible to live on Floracre. Abuela wants to use a strong pesticide to kill the flowers. However, the Encanto zoning code prohibits the use of that pesticide. Abuela applies for a variance to use that pesticide. The Encanto Zoning Board agrees to grant Abuela a variance to use the pesticide if she agrees to impose a covenant on Floracre, which would prohibit Isabela from living on that property. The Zoning Board deemed Isabela a danger to the community.

Abuela sues the Zoning Board with a three-count complaint. Count 1 of the complaint alleges that the Encanto zoning code required the issuance of the variance. Count 2 of the complaint alleges that the Board's condition on the variance violates the Takings Clause of the Fifth Amendment. Count 3 of the complaint alleges that the Board's condition on the variance violates the First and Fourteenth Amendments.

1. How should the Encanto Trial Court resolve Count 1 of the complaint?
2. How should the Encanto Trial Court resolve Count 2 of the complaint?
3. How should the Encanto Trial Court resolve Count 3 of the complaint?

#### **Question #4**

Luisa owns Noacre in fee simple. Mirabel owns Strongacre in fee simple. The family members then engage in a series of transactions.

- Luisa conveys Noacre to Mirabel in fee simple with a covenant to make sure no cracks appear on any buildings on Noacre.
- Mirabel conveys Strongacre to Luisa in fee simple with a covenant to take care of the donkeys on Strongacre.
- Luisa grants a life estate to Pepa in Strongacre
- Mirabel grants Bruno a term of ten years in Noacre.
- Bruno causes cracks to form on a house on Noacre.
- Bruno grants Abuela a term of ten years in Noacre.
- The donkeys escape from Strongacre.

Abuela files suit against Pepa for failing to take care of the donkeys. Pepa sues Abuela for the cracks that formed on Noacre.

4. How should the Encanto Trial Court resolve this dispute?

#### **Question #5**

5. Discuss the strengths and weaknesses of the three types of recording acts.