

## TOPIC 1

# Property Ownership



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## EXAM TOPICS

### TOPIC 1 - Property ownership (Salesperson 8%; Broker 10%)

- A. Real versus personal property; conveyances**
- B. Land characteristics and legal descriptions**
  - 1. Types of legal descriptions;
    - a. Metes and bounds,
    - b. Lot and block,
    - c. PLSS Government survey
  - 2. Measuring structures Livable, rentable, and usable area
  - 3. Land Measurement
  - 4. Mineral, air, and water rights
- C. Encumbrances and effects on property ownership**
  - 1. Liens
  - 2. Easements and licenses
  - 3. Encroachments
  - 4. Other potential encumbrances of title
- D. Types of ownership**
  - 1. Tenants in common
  - 2. Joint tenancy
  - 3. Common- interest ownership
    - a. Timeshares
    - b. Condominiums
    - c. Co-ops
  - 4. Ownership in severalty/sole ownership
  - 5. Life Estate ownership
  - 6. Property ownership held in trust (*BROKER ONLY*)

## STUDY NOTES:

### Real Estate Overview

- I. **Overview** - Real estate is big business with complex transactions and many people involved



- II. **Real Estate:** A Business of Many Specializations
  - A. **Brokerage** - the business of bringing people together in a real estate transaction
  - B. **Appraisal** - the process of developing an opinion of the market value of real property
  - C. **Property management** - the business of managing real estate to protect the owner's investment and maximize the owner's return
  - D. **Financing** - the business of arranging for or providing funds for real estate transactions
  - E. **Subdivision and development** - the activities of dividing a large parcel of real estate into smaller ones and constructing improvements on the land
  - F. **Home inspection** - the activities involved in conducting a visual survey of a property's site conditions, structure, and systems, and preparing an analytical report useful to both buyers and homeowners

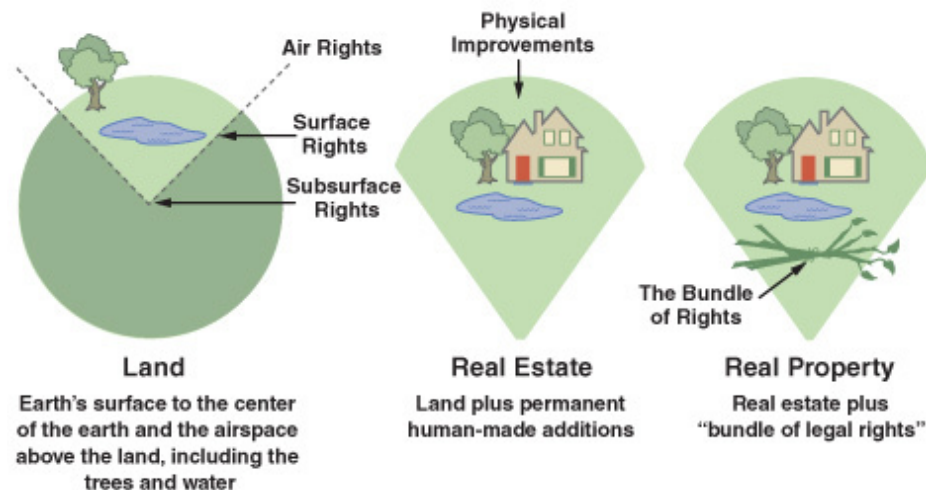
- G. **Counseling** - the activity of providing clients with competent and independent information and advice to assist in their real estate investment decisions
- H. **Education** - the provision of real estate education opportunities to both practitioners and consumers
- I. **Others** - settings in which real estate expertise is required, such as the practice of law, corporations with extensive land holdings, and government agencies

## II. **Types of Real Property**

- A. **Residential** - single-family dwellings, duplexes and double houses, triplexes, fourplexes, apartments, townhouses, condominiums, mobile homes, manufactured housing, modular housing, and real estate used for specific residential purposes such as retirement homes, vacation property, and others common in different parts of the country
- B. **Commercial** - office buildings, retail stores and shopping centers, and other specialized facilities such as marinas, air parks, and certain mixed-use properties
- C. **Mixed-use** - properties that allow commercial and residential uses in the same building
- D. **Industrial** - factories, industrial parks, warehouses, and power plants
- E. **Agricultural** - farms, ranches, orchards, vineyards, feedlots, hatcheries, and timberland
- F. **Special purpose** - churches, schools, cemeteries, government-owned property

## **Real Property and Personal Property**

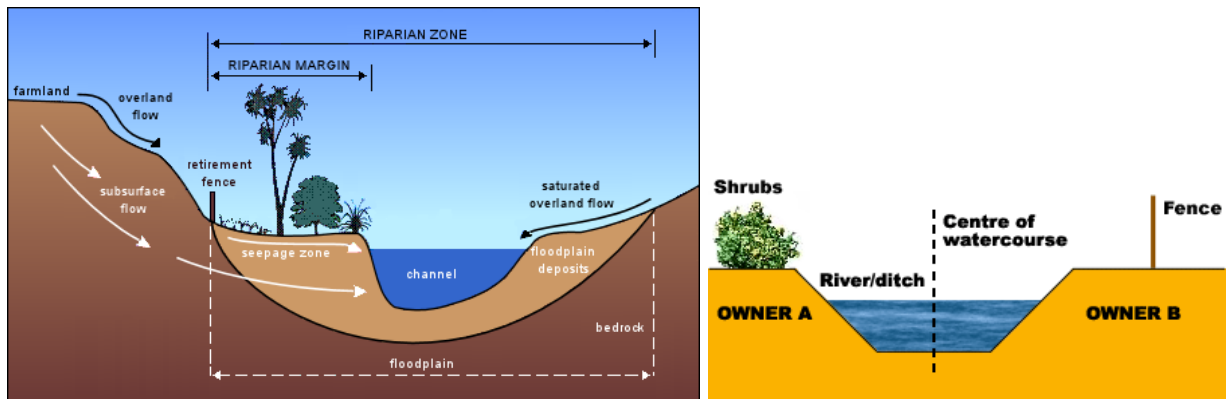
### I. **Land, Real Estate, and Real Property**



- A. **Land** - the earth's surface extending downward to the center of the earth and upward to infinity, including things permanently attached by nature, such as trees and water

- B. **Real estate** - the land and all things permanently attached to it by either nature or people (improvements)
- C. **Real property** - real estate plus the interests, benefits, and rights inherent in the ownership of real estate. In Practice: "real estate" and "realty" are casual uses of the term accurately described as "real property"
  - 1. **Ownership of real property:** bundle of legal rights; concept comes from old English law
  - 2. **The bundle of legal rights** includes the rights of **(DEEPC)**:
    - a. **Disposition** - determining how the property will be disposed of
    - b. **Enjoyment** - possession without harassment or interference
    - c. **Exclusion** - legally refusing to create interests for others
    - d. **Possession** - the right to occupy the premises
    - e. **Control** - the right to determine certain interests for others
  - 3. **Title to real property**
    - (1) right to property, and
    - (2) evidence of ownership by deed
  - 4. **Appurtenance:** right or privilege associated with the property, although not necessarily a part of it

### III. Water Rights in Land



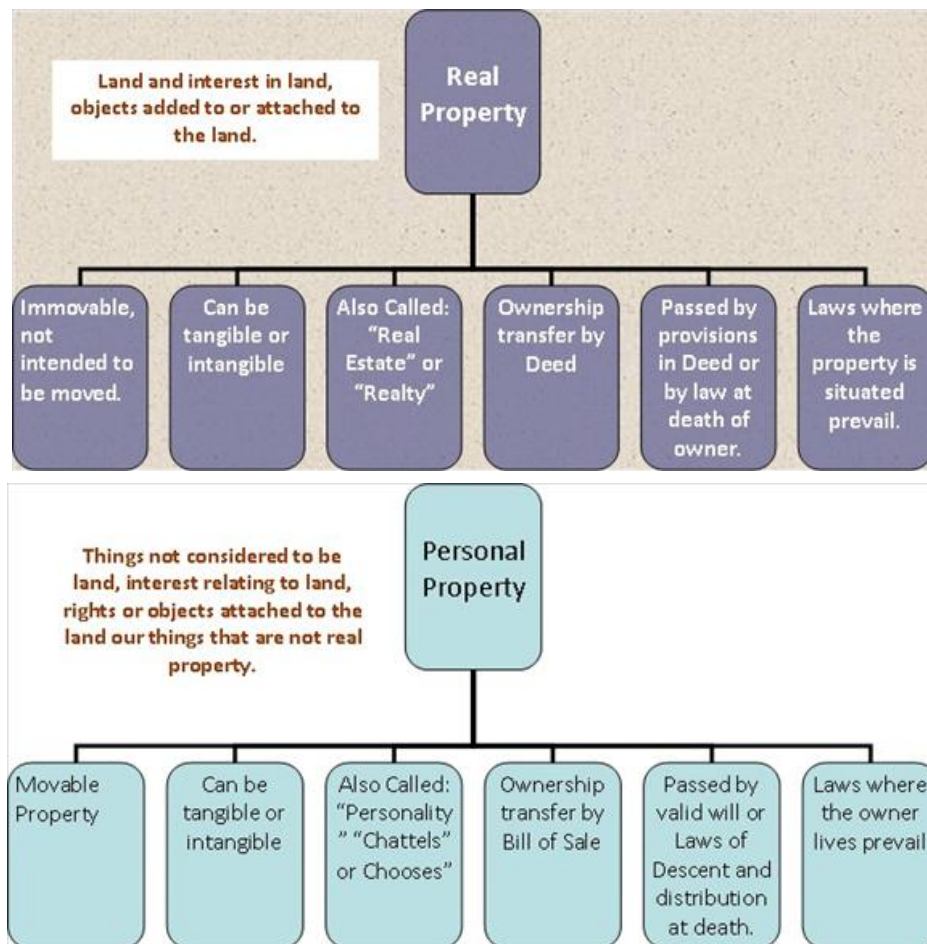
- A. **Surface rights** - may be sold or leased to others
- B. **Subsurface rights** - includes rights to minerals and other substances under the earth's surface. Such rights may be sold or leased to others in the same ways as surface rights and independent of surface ownership.
- C. **Air rights** may also be sold or leased independent of surface ownership.
- D. **Water rights** held by owners of land adjacent to rivers, lake, or oceans
  - 1. **Riparian rights** - rights granted to owners of land along a river, stream, or similar body of water
  - 2. **Littoral rights** - rights of owners whose land borders commercially navigable lakes, seas, and oceans

### 3. Accretion, erosion, and avulsion

- a. **Accretion** - increases in land resulting from deposit of soil by water's action
- b. **Erosion** - loss of soil by gradually wearing away by natural forces
- c. **Avulsion** - sudden removal of soil due to act of nature

### 4 Doctrine of prior appropriation - the right to use any water, except for limited domestic use, is controlled by the state rather than the adjacent landowner.

### III. Real Property vs. Personal Property - personal property is all property that does not fit the definition of real property



- A. **Personal property** is movable; also referred to as chattels
- B. **Factory-built housing** is defined as dwellings that are not constructed at the site but are built off-site and transported to the building lot where they are installed or assembled. Manufactured housing (mobile homes) and modular housing laws vary depending on when and how the housing is permanently attached to the ground.
- C. **Plants fall into one of two categories:**

1. Trees, perennial shrubbery, and grasses not requiring annual cultivation are **real property (fructus naturales)**.
  2. Crops with a growing season of less than a year (annuals), known as emblements, are **personal property (fructus industriales)**.
- D. **An item of real property may be changed to personal property through severance.**
1. Trees are real estate that becomes personal property when an owner cuts them down.
- E. **An item of personal property may become real estate by annexation.**
1. **Construction materials** routinely become real estate.

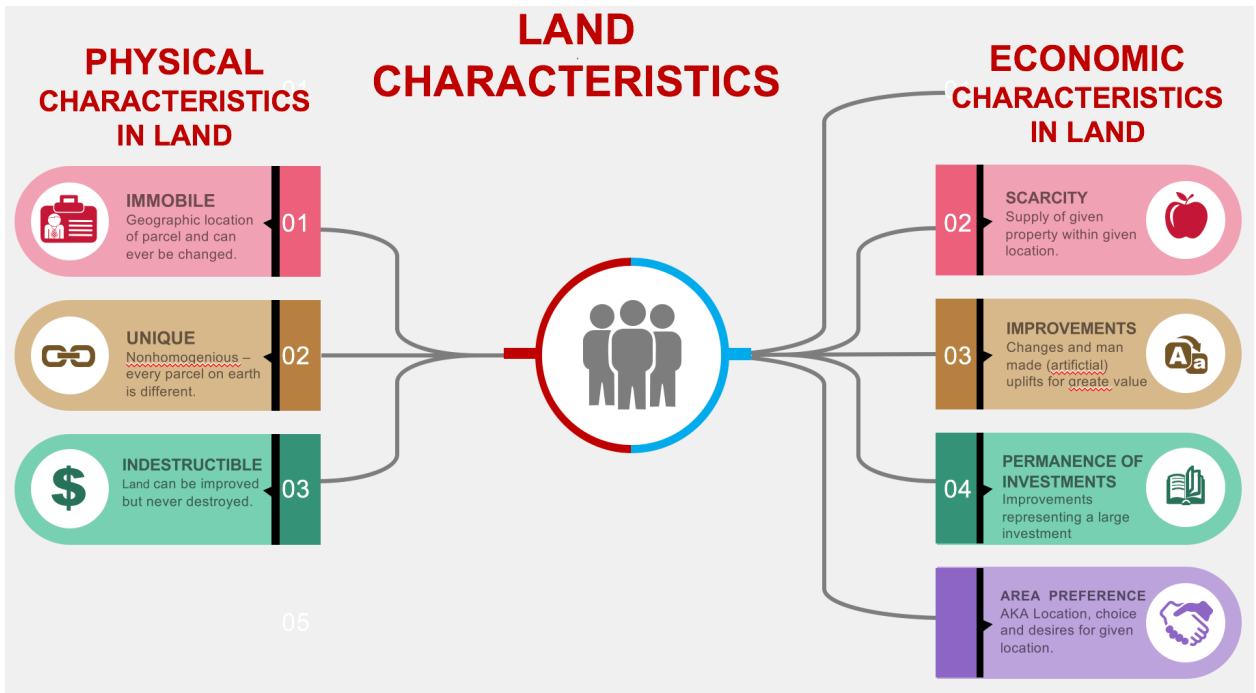
#### E. Classification of fixtures

Man-made Attachments Fixtures	Attachments Trade fixtures
<p>Fixtures were once personal property, but are now attached to real property in a way that makes them part of real property.</p> <ul style="list-style-type: none"> <li>• Houses, fences, patios, and other man-made improvements are fixtures.</li> </ul>	<p><u>Trade fixtures</u>: Equipment and other items that commercial tenant installs to conduct business.</p> <ul style="list-style-type: none"> <li>• Trade fixtures can be removed by tenant at end of tenancy, if property is restored to its original condition.</li> </ul>

1. **Fixture** - an article that was once personal property but has been so affixed to land or a building that the law now recognizes it as part of the real property
2. **Legal tests of a fixture**: overall test is intention of the annexer
  - a. The **method of annexation**
  - b. The **adaptation** to real estate
  - c. The existence of an **agreement**
3. **Trade fixture** - an article owned by a tenant and attached to rented space or a building for use in operating a business
  - a. **Tenant's personal property**
  - b. **Must remove** on or before last day of lease
  - c. **Not removed** - becomes landlord's real property by accession
4. **Importance in a real estate transaction** - to avoid confusion about which items are intended to be included in the sale, they should be clarified when a property is listed and the sales agreement is negotiated.

## IV. Characteristics of Real Property





**A. Economic characteristics**

1. **Scarcity:** Although the total supply of land is not in short supply, land of a particular quality or location may be limited.
2. **Improvements:** They can affect both the improved parcel and surrounding parcels, either favorably or unfavorably.
3. **Permanence of investment:** Improvements are considered to create fixed investments.
4. **Area preference or situs:** Peoples' choices of one area or site over another (area preference or situs) are the most important economic characteristic.

**B. Physical characteristics**

1. **Immobility:** The geographic location of any given parcel of land can never be changed.
2. **Indestructibility:** Land is durable and indestructible, even though erosion, flood, volcanic action, and fire may change its topography and value.
3. **Uniqueness:** The law holds that no two parcels of land are exactly the same; this uniqueness is also known as "**nonhomogeneity.**"

**VI. Property Ownership**

## A. Classes of property

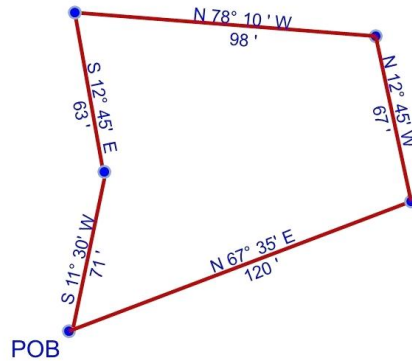


1. **Real property** -The land and anything permanently affixed to it; includes the interests, benefits, and rights inherent in the ownership of real estate.
2. **Personal property** -movable objects (chattels) that do not fit into the definition of real property; conveyed by bill of sale.
3. **Fixture** - an item of personal property that has been converted to real property by being permanently affixed to the land or building. Fixtures can be either attached or annexed. A fixture that is permitted to be and is detached from the land or the building would revert to personal property (severance).
4. **Trade fixture** -an item installed by a commercial tenant according to the terms of a lease and removable by the tenant before the expiration of the lease - personal property. If not removed, the trade fixture becomes real property of the building owner by accession.



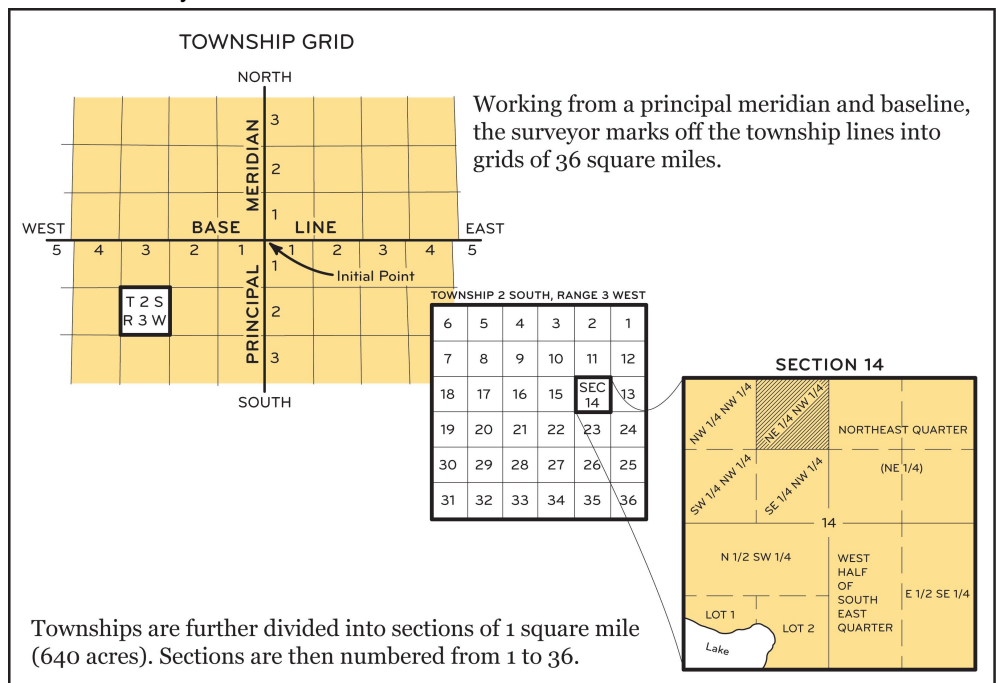
VII. Land Characteristics  
A. Legal Descriptions

Metes and Bounds



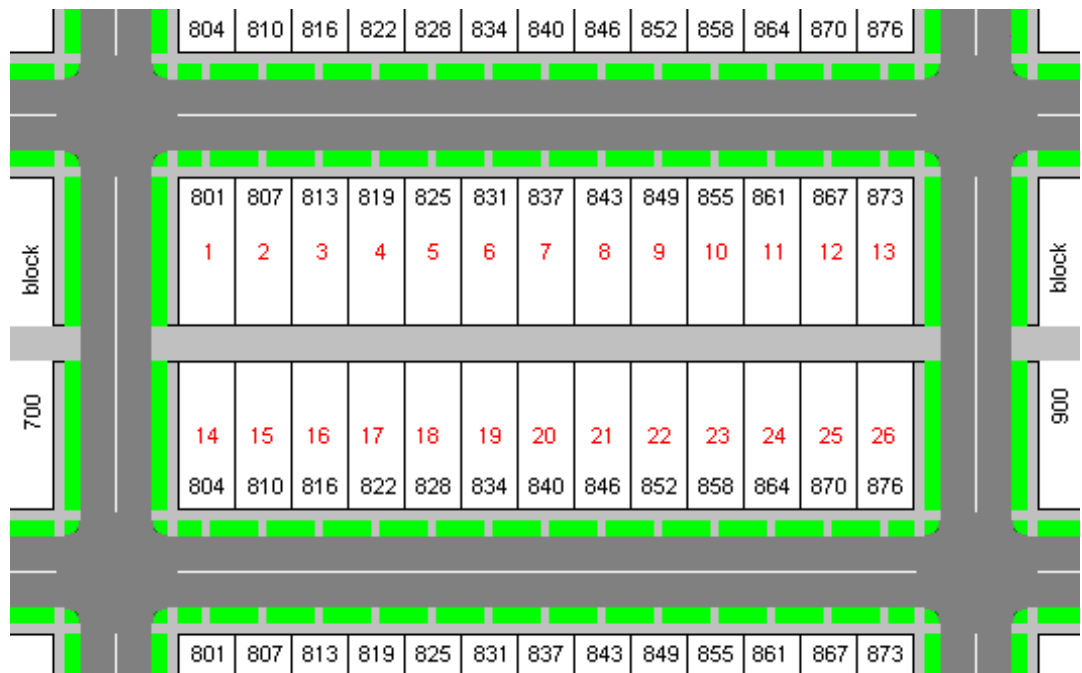
1. Metes and bounds

- To locate a property boundary requires two permanent reference markers (PRM). Then, the boundary is measured from a specific point of beginning (**POB**) and proceeds around the boundaries using reference to linear measurements and directions.
- Boundaries may be established on the basis of actual distance between monuments (fixed objects).
- A boundary must return to the point of beginning (**POB**) so that the land described is fully enclosed. This boundary is called the point of ending (**POE**)
- Street address:** an informal reference that is allowed in Connecticut instead of actual Metes and Bounds Survey; too unreliable for a legal description because you cannot walk the boundaries.



2. Rectangular (government) survey

- a. Based on measurements from base lines and principal meridians.
- b. Base lines run east and west; principal meridians run north and south.
- c. Designed to set up checkerboard pattern of identical squares over specific area.
  - 1) Parallel vertical lines six miles apart divide land into strips east and west of the principal meridian that are referred to as *ranges*.
  - (2) Parallel horizontal lines six miles apart divide land into strips north and south of the baseline that are referred to as *tiers*.
  - (3) The grid that divides the land into townships is formed by superimposing these two sets of lines.
    - (a) A township is six miles square (36 square miles).
    - (b) A township contains 36 sections; each section is a square mile and contains 640 acres (one acre = 43,560 square feet).
    - (c) Sections are numbered from the northeast corner; the first row of six sections runs east to west, the second row west to east, and so on, with section 36 located in the southeast corner of the township.
    - (d) The land description is based on references to either a section or some portion of a section, such as one quarter-section (160 acres) or one half-section (320 acres).



### 3. Lot and Block

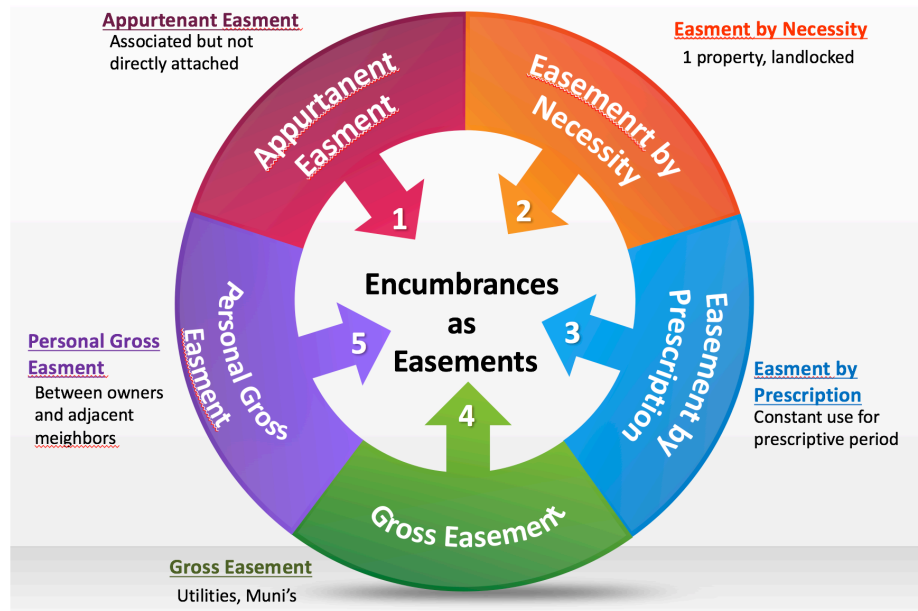
- a. Location of an individual parcel is indicated on a map of the subdivision, which is divided into numbered blocks and lots.
- b. Each parcel is referred to a lot, block, subdivision name, city, and state.

## VIII. Encumbrances

- A. A **charge, claim**, or liability that attaches to and is binding on real estate.  
B. **General classifications of encumbrances**

1. **Liens** - affect the title
  - a. A lien is a charge against property that provides security for a debt or obligation of the property owner.
  - b. If the debt is not repaid, the lienholder has the right to have it paid out of the debtor's property, generally from the proceeds of a court or foreclosure sale.
  - c. A specific lien relates to specific property; a general lien, such as a judgment or court decree, applies to all of the debtor's property.
  - d. Possible specific liens against an owner's real estate include real estate taxes, mortgages, and mechanics' liens.
  - e. Real estate taxes and special assessments usually take priority over all other liens, regardless of date.
  - f. In some states, mechanics' liens may be given priority over previously recorded liens because mechanics' liens revert to the date the work was started, not to when the lien was recorded.
2. **Encumbrances that affect the physical condition** and /or use of the property include encroachment, easements, and restrictions.
  - a) **Deed restriction** - a deed restriction or restrictive covenant is a private limitation on the use of property. Developers use it to make their new neighborhoods appealing to certain buyers. These restrictions can be enforced by a court injunction.

### Encumbrances as Easements



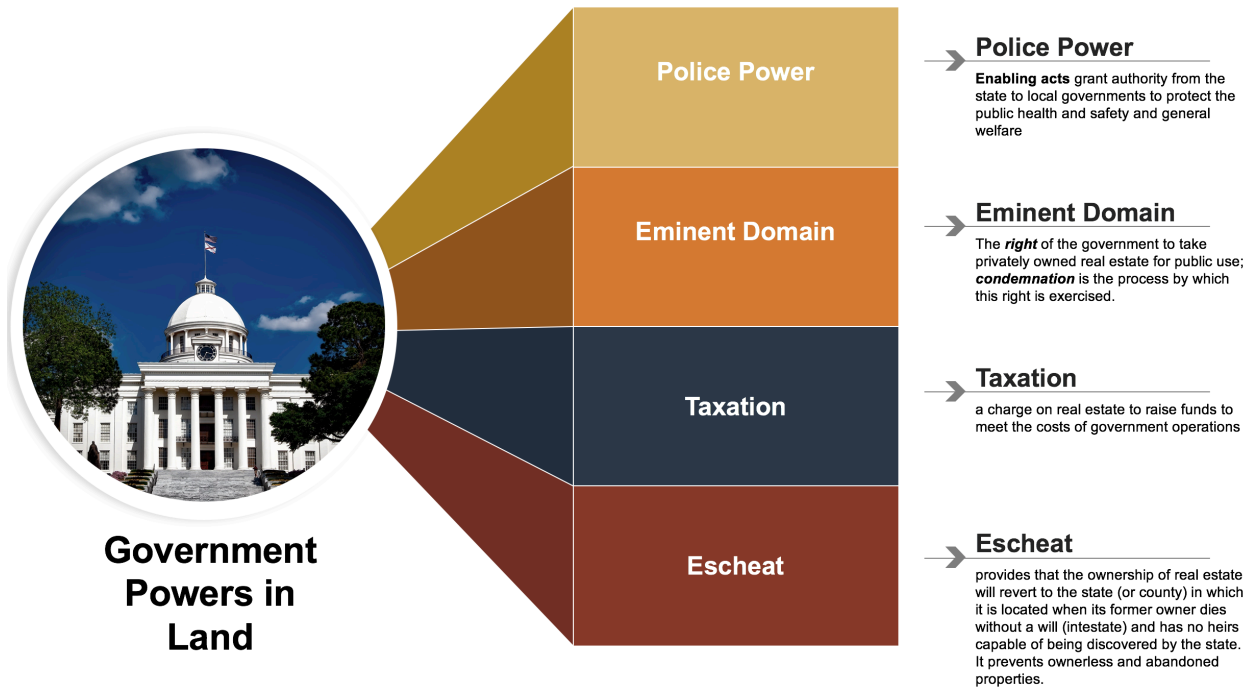
- b. **Easement** - an easement is a right acquired by one party to use the land of another party for a specific purpose.
  - (1) **Easement appurtenant**
    - (a) **An easement annexed** to ownership giving the easement user the right to use another's property.
    - (b) **Requires that there be two tracts** of land, either contiguous or noncontiguous, owned by different parties.

- (c) The tract over which the easement runs is known as the **servient tenement**; the tract that benefits from the easement is known as the **dominant tenement**.
- (d) **Appurtenant easements “run with the land”** and are not terminated by the sale of either the servient or dominant tenement.
- (2) **Easement in gross** - a mere personal interest in or right to use the land of another, such as the right of way for a utility company; there is no dominant tenement, just a servient tenement.
- (3) **Easement by necessity** - arises when there is no other access to a property by a street or public way and the easement is required by necessity rather than for convenience.
- (4) **Easement by prescription**
  - (a) Acquired when the claimant has made use of another's land for the prescriptive period, generally from 5 to 20 years.
  - (b) Claimant's use must have been continuous, without the owner's approval, visible, open, and notorious. Successive periods of use by different parties may establish a claim for an easement by prescription.
- (5) **License**
  - a) Permission to enter the land of another for a specific purpose, such as permission to park in a neighbor's driveway or to go hunting on another's property.
  - b) Generally differs from easement in that it can be cancelled or terminated by licensor at any time.
  - c) Generally, the privilege to use another's land for a specific purpose; can be terminated or canceled by the licensor.
- (6) **Encroachment**
  - (a) illegal extension of a building or some other improvement, such as a wall or fence, beyond the boundaries of the land of its owner and onto the land of an adjoining owner.
  - (b) illegal extension of a building or some other improvement, such as a wall or fence, beyond the boundaries of the land of its owner and onto the land of an adjoining owner.
- (7) **Lis Pendens** - Notice of pending legal action affecting title of property

## 2. Terminating Easements

- a. When the purpose for which it was created no longer exists
- b. By the owner of either the dominant or the servient tenement becoming the owner of both under one legal description (merger)
- c. By release of the right of easement to the owner of the servient tenement
- d. By abandonment of the easement
- e. By the nonuse of a prescriptive easement by its owner
- f. By Death of the owner

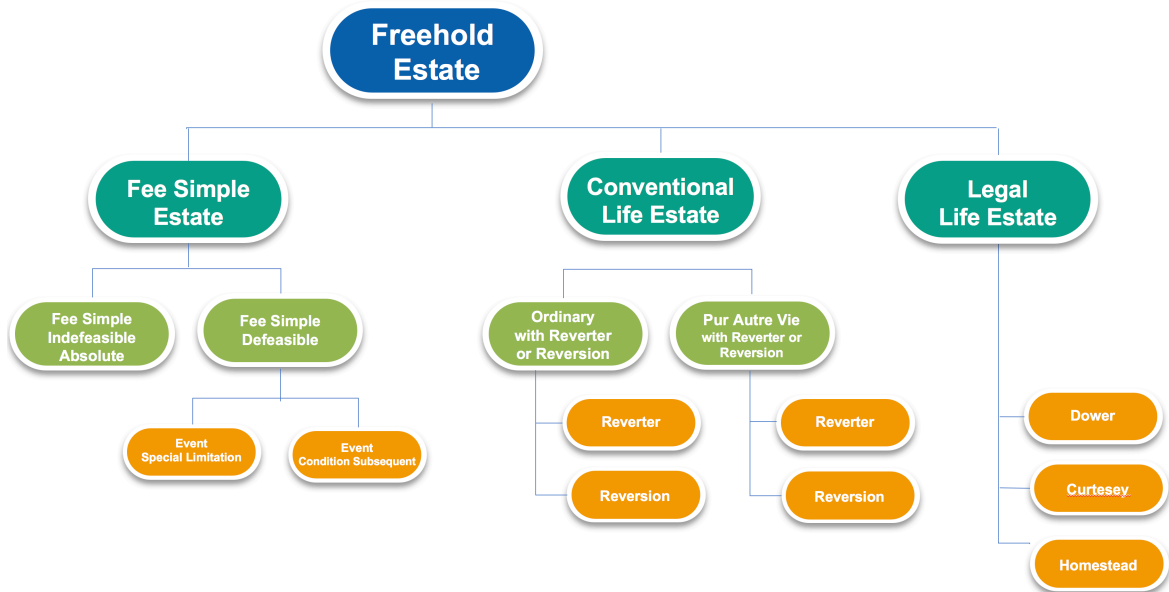
3. **Governmental Powers (PETE)** - limitations on the ownership imposed by the government for the general welfare of community; supersede rights or interests of the individual owner



- a. **P = Police power**
- Enabling acts** grant authority from the state to local governments to protect the public health and safety and general welfare.
  - Zoning ordinances**, building codes, environmental protection laws, and other regulations
- b. **E = Eminent domain**
- The **right** of the government to take privately owned real estate for public use; **condemnation** is the process by which this right is exercised.
  - Legal protections for the property owner
    - In the past, the proposed use must be declared by the courts to be for a legitimate public use. However, condemnation for “public use” has been defined more broadly than in the past; reference *Kelo v. city of New London* case where the court found that the city invoked a state statute that authorized use of eminent domain to promote economic development.
    - Just compensation** must be paid to the owner for both the property taken and the diminished value of what is left.
    - The rights of the owner** must be protected under due process of law.

- d. Right extends to quasi-government bodies; can include renewal projects.
- c. **T = Taxation** - a charge on real estate to raise funds to meet the costs of government operations
- d. **E = Escheat** - provides that the ownership of real estate will revert to the state (or county) in which it is located when its former owner dies without a will (intestate) and has no heirs capable of being discovered by the state. It prevents ownerless and abandoned properties.

## IIX. Freehold Estates



### A. Estates in land

1. Refers to degree, quantity, and nature of interest that a person has in real property for a lifetime (life estate) or forever (inheritable freehold).
2. **Freehold estates** - estates of indeterminable length, such as those existing for a lifetime or forever.
3. **Fee simple**
  - a. Highest type of interest in real estate recognized by law.
  - b. Holder entitled to all rights incident to property.
  - c. Continues for indefinite period and is inheritable by heirs of owner.
4. **Defeasible** fee (qualified, conditional, determinable, or base fee)
  - a. Continues for an indefinite period; may be inherited.
  - b. Estate extinguished on the occurrence of a designated event, the time of such occurrence being uncertain.
  - c. May be based on either certain or uncertain event.

### B. Life estate

1. Limited in duration to life of life tenant or life or lives of some other designated person or persons.
2. Not an estate of inheritance, because estate terminates at the death of the life tenant or the designated person.
3. May be created for the life of another person (estate pur autre vie).
4. Future interests in the property after the death of the life estate owner
  - a. **Remainder interest** - if the deed or the will names a third party to whom title will pass on the death of the life estate owner, then such party is said to own remainder interest.
  - b. **Reversionary interest** - if the deed does not convey remainder interest



to a third party, then on the death of the life estate owner, full ownership reverts to the original fee simple owner or, if he or she is deceased, to heirs.

5. Usually limited to the lifetime of the owner of the life estate (life tenant). An exception would be an estate pur autre vie.

### C. Life tenant

1. Interest in real property is time-ownership interest.
2. Generally not answerable to the holder of future interest (remainderman).
3. Has limited rights, that is, can enjoy the rights of the land but cannot encroach upon the rights of the remainderman.
4. May not commit waste (permanently injure the land or property).
5. Entitled to possession of the property and to all income and profits arising from property during the term of ownership.
6. Life interest may be sold, leased, mortgaged, or gifted but may be of little value because all interest must be forfeited at the death of the life tenant; remainder interest cannot be encumbered by the life tenant.

### D. Legal life estates

1. **Curtesy** - husband's life estate in all inheritable real estate of the deceased wife.
2. **Dower** - wife's life estate in all inheritable real estate of the deceased husband.
3. Many states have abolished curtesy and dower in favor of the laws of descent and distribution, by which the surviving spouse is frequently allowed to take a specific portion of the estate in fee rather than life estate.
4. **Inchoate** - a right not yet perfected.

### E. Homestead

1. Tract of land owned and occupied as the family home. The dwelling house and its adjoining land where a family resides. Technically, and pursuant to the modern homestead exemption laws, an artificial estate in land, created to protect the possession and enjoyment of the owner against the claims of creditors by preventing the sale of the property for payment of the owner's debts so long as the land is occupied as a home.
2. **A probate homestead** is one that the court sets apart out of the estate property for the use of a surviving spouse and the minor children or out of the real estate belonging to the deceased.
3. **Homestead Definition:** The house and lot of a homeowner which the head of the household (usually either spouse) can declare in writing to be the principal dwelling of the family, record that declaration of homestead with the County Recorder or Recorder of Deeds and thereby exempt part of its value \$75K in Connecticut from judgment creditors. A similar exemption is available in bankruptcy without filing a declaration of homestead.
4. In Connecticut with limited homestead-exemption laws, a portion of the area or value of land is exempted, or protected, from judgment for unsecured debts.

### F. Adverse Possession

1. The continuous, open, hostile, notorious, and adverse use of another's property without his or her permission. Statutory possession periods vary from state to state and are a factor used in determining this involuntary transfer of title. Adverse possession claims may be based on either a claim of right or color of title. A claim of right could occur when a father gifts a daughter the family farm and then, ten years later, dies without having transferred the title by deed. The daughter's actual entry and possession (for the statutory time) ripened into title by adverse possession. Color of title takes place when a title appears to be good but is not. An example would be the conveyance of title by a forged deed. By occupying the premises for a statutory period of time, the possessor may acquire legal title by claiming "color of title."

## G. Ownership by natural persons

1. **In severalty** - one owner, single entity (i.e. Corporation, Tenancy Entirety)

2. **In co-ownership** - two or more owners

### a. Tenancy in common

- (1) Each owner holds an individual interest in severalty.
- (2) Each owner can sell, convey, mortgage, or transfer his or her interest without the consent of the other co-owners.
- (3) Upon the death of a co-owner, the individual interest of the deceased passes to heirs or devisees according to the will; there is no right of survivorship.
- (4) Tenants in common may partition the land.

### b. Joint tenancy

- (1) Owners have the right of survivorship, which states that all title, right, and interest of a deceased joint tenant in certain property passing to the surviving joint tenants by operation of law is free from claims of heirs and creditors of the deceased.
- (2) Four unities - title, time, interest, and possession - are required to create a valid joint tenancy.
- (3) Termination results from the destruction of any of the four unities.

### c. Tenancy by the entirety

- (1) Owners must be husband and wife.
- (2) Owners have the right of survivorship.
- (3) Title may be conveyed or encumbered only by the deed signed by both parties (one party cannot convey a one-half interest).
- (4) Usually no right of partition.

### d. Community property (marital property)

- (1) **Husband and wife may have sole ownership of the separate or individual property** if it was owned solely by either spouse before the marriage or was acquired by gift or inheritance after marriage.
- (2) **Husband and wife are equal partners** in the community or marital property (property acquired during the marriage).
- (3) **Upon the death of one spouse, the survivor automatically owns one-half** of the community property, the other half being distributed according to the deceased's will.
- (4) **Antenuptial agreements** are contracts (prior to marriage) that preserve separate property ownership.

3. **In Trust** - by a third person for the benefit of another

4. **Ownership by a business organization**

5. **Partnerships**

a. **Association of two or more persons** to carry on business as co-owners and share in the profits and losses of that business

b. **Types of partnerships**

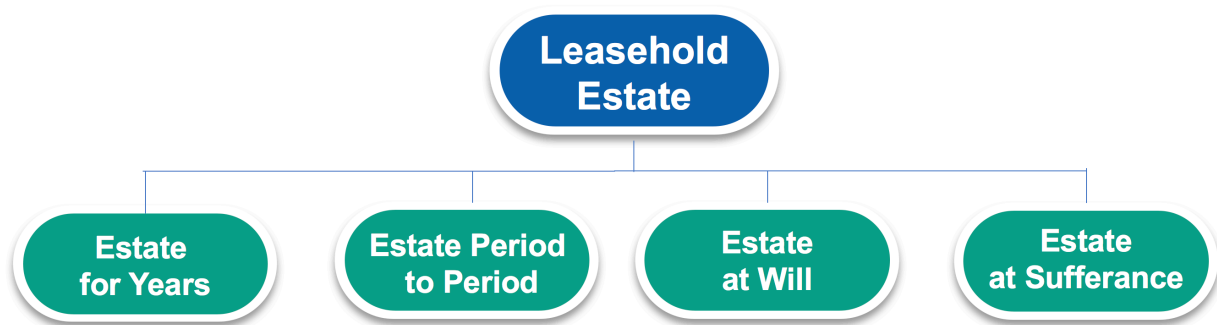
- (1) **General** - all partners participate in the operation of the business and may be held personally liable for business losses and obligations.
- (2) **Limited**
  - (a) Includes general as well as limited, or silent, partners.
  - (b) General partner runs the business.
  - (c) Although limited partners do not participate, they may be held liable for business losses, but only to the extent of their investment unless they take an active role in management.

6. **Corporations**

a. **Ownership in severalty** - corporations are considered by law to be a single entity.

- b. Each stockholder's liability for losses generally is limited investment amount.
7. **Syndicates** - joining together of two or more parties to create and operate a real estate investment.
  8. **REITS** - a Real Estate Investment Trust is the ownership of real estate by a group of individual investors who purchase certificates of ownership in the trust. The trust invests in real property and distributes the profits back to the investors free of corporate income tax.

## IX. Leasehold Estates



### A. Types of Leasehold Estates

1. **Tenancy on estate for years:** lease for a definite period of time terminating automatically without notice by either party.
2. **Tenancy from year-to-year:** or **periodic estate** - lease for an indefinite period of time without a specific expiration date; notice must be given to terminate.
3. **Tenancy at will:** lease that gives the tenant the right to possess with the consent of the landlord for an indefinite period of time; terminated by either party giving notice or by the death of either the landlord or the tenant.
4. **Tenancy at sufferance:** tenant continues to hold possession without the consent of the landlord.

### B. Types of Leases

1. **Gross lease:** tenant pays a fixed rent, while landlord pays all taxes, insurance, etc.
2. **Net lease:** tenant pays rent plus all or part of property charges.
3. **Percentage lease:** usually provides for minimum fixed rent plus a percentage of the portion of tenant's business income that exceeds a stated minimum
4. **Graduated lease** - provides for specified rent increase at set future dates
5. **Index lease:** allows rent to be increased or decreased periodically based on agreed index such as the change in the government cost-of-living index

## X. Other Important Terms

1. **Accession:** Accession has different definitions depending upon its application. In property law, it is a mode of acquiring property that involves the addition of value to property through labor or the addition of new materials.
2. **Accretion:** the increase of the actual land on a stream, lake or sea by the action of water which deposits soil upon the shoreline.
3. **Alluvion:** Alluvion is a legal term which describes the increase in the area of land due to accumulation of soil, clay or other material deposited by water. The added land belongs to the owner of the property to which it is added.
4. **Avulsion:** avulsion refers to a sudden loss or addition to land, which results from the action of water. It differs from accretion, which describes a gradual loss or addition to land resulting from the action of water.
5. **Appurtenances:** In a legal context, an **appurtenance** is something that is attached to, or belongs to, a building or piece of land in such a manner that it is part of the property, such as a barn, or a yard. An **appurtenance** can be physical or abstract in nature, though it is something of lesser value than the actual property itself.
6. **Assignment:** An assignment of contract occurs when one party to an existing contract (the "assignor") hands off the contract's obligations and benefits to another party (the "assignee"). Ideally, the assignor wants the assignee to step into his/her obligations and assume all of his contractual obligations and rights. .
7. **Attachment:** Procedure by which property of debtor is placed in the custody of the law and is held as security, pending the disposition of a creditor's suit.
  - a. Rights can be assigned, unless the contract expressly forbids assigning them.
  - b. Obligations often assigned, but the original party is secondarily liable for them.
8. **Benchmark:** A benchmark is a mark on a fixed or enduring object, such as a metal stake or rock, and it is often used as an elevation point by a surveyor.
9. **Cloud on title:** A cloud on title is any document, claim, unreleased lien or encumbrance that might invalidate or impair the title to real property or make the title doubtful. Clouds on title are typically discovered during a title search.
10. **Datum:** horizontal plane from which elevations are measured.
11. **Erosion:** gradual washing away of soil caused by flowing water or air.
12. **Fixtures** personal property that has been affixed to and becomes part of the real property.
13. **Latches** court doctrine that bars a legal claim because of undue delay to assert the claim.
14. **Lis pendens:** (a latin term for Litigation Pending) – town clerk or court recorded document creating 'constructive notice' that an action related to the real property has been filed in court; Title transfer of real property is halted until this is satisfied or dismissed.
15. **Novation:** is transfer of legal rights and duties under a contract. A cleanup re-write of same contract without hand-written initials and date.

Original contract canceled. New contract negotiated and drawn, with the same parties or a new second party. Original party, if replaced, not liable.

16. **Parol-evidence rule:** the **purpose** of the parol-evidence rule is to prevent a party from introducing evidence of prior oral agreements that occurred before or while the agreement was being reduced to its final form in order to alter the terms of the existing contract.
17. **Quiet-title action** court action to establish the title to a specific property, for example, where there is a cloud on the title.
18. **Statute of frauds** Law that requires that certain contracts be in writing before they can be enforced; contracts for the sale of land and leases of more than one year are generally required to be in writing and signed by all parties.
19. **Statute of limitations** law that refers to the length of time within which a party may sue.
20. **Valuable consideration:** consideration with a monetary measure of value.

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**NATIONAL TEST TOPIC #1**  
**PROPERTY OWNERSHIP #1**  
**2020 Practice Classroom Quiz**



- 1. A real estate professional who performs a visual survey of a property's structure and systems and prepares an analytical report for a purchaser or an owner is acting as a(n)**

  - A) educator.
  - B) appraiser.
  - C) property manager.
  - D) home inspector.
  
- 2. When responsible for maintaining a client's property and maximizing return on the client's investment, a broker is serving as a(n)**

  - A) rental agent.
  - B) building maintenance specialist.
  - C) property manager.
  - D) investment counselor.
  
- 3. A licensed real estate professional acting as a point of contact between two or more people in negotiating the sale, rental, or purchase of a property is known as a(n)**

  - A) sales affiliate.
  - B) broker.
  - C) property manager.
  - D) appraiser.
  
- 4. The phrase “bundle of legal rights” is properly included in**

  - A) the definition of real property.
  - B) a legal description.
  - C) real estate transactions.
  - D) leases for less than one year.
  
- 5. A bill of sale is used to transfer the ownership of**

  - A) real property.
  - B) fixtures.
  - C) personal property.
  - D) appurtenances.

- 6. The rights of ownership of real property include all of the following EXCEPT the right of**
- A) disposition.
  - B) exclusion.
  - C) control.
  - D) compatibility.
- 7. The uniqueness of land and its inability to be substituted is known as**
- A) nonhomogeneity.
  - B) scarcity.
  - C) permanence of investment.
  - D) nonheterogeneity.
- 8. The term *improvements*, when referring to real estate, would include**
- A) shrubbery.
  - B) trees.
  - C) sidewalks.
  - D) lawns.
- 9. An important characteristic of land is that it may be modified or improved at some point in time. Depending on its type, an improvement may increase the value of real estate greatly. All of the following are considered to be improvements EXCEPT**
- A) sewers.
  - B) crops.
  - C) buildings.
  - D) roads.
- 10. All of the following are economic characteristics of land EXCEPT**
- A) scarcity.
  - B) permanence of investment.
  - C) uniqueness.
  - D) area preference.
- 11. Fixtures are**
- A) treated as real property.
  - B) considered to be chattels.
  - C) removable by a tenant before the expiration of the lease.
  - D) removable by a tenant after the expiration of the lease.
- 12. Land is considered to be**
- A) indestructible.
  - B) a wasting asset.
  - C) immune to the forces of supply and demand.
  - D) subject to personal property rights.
- 13. Which of the following would be considered community property?**
- A) Gift of property to a wife during her marriage
  - B) A motor home bought during the marriage
  - C) Property inherited by a husband during marriage
  - D) Rental property owned by either husband or wife prior to the marriage

**14. Mirek and Zola owned a combination apartment building and restaurant. They shared their profits and losses on the venture equally, but they did not have any written partnership agreement. One day, Ursula died of a heart attack. If, after her death, Kyle continued to only own the same undivided interest in the real estate as he did before, then**

- A) they were joint tenants.
- B) they were tenants in common.
- C) they were shareholders in their own corporation.
- D) Ursula died intestate.

**15. A joint tenancy with right of survivorship may be created**

- A) automatically if the property is distributed to the surviving children.
- B) by presumption if another form of ownership is not described.
- C) by deed or will.
- D) automatically if a deed is signed by both spouses.

**16. For a property to be held in tenancy by the entirety, which of the following is required?**

- A) The cotenants must be husband and wife.
- B) The property in question must be Torrens property.
- C) Upon the death of a cotenant, the decedent's interest must pass to his or her heirs.
- D) In the event of a dispute, the property must be partitioned.

**17. A trust that is established after the death of the owner is called a**

- A) trust by will.
- B) testamentary trust.
- C) beneficial trust.
- D) living trust.

**18. Which of the following is *TRUE* of condominium ownership?**

- A) It cannot be mortgaged.
- B) The corporation pays the real estate taxes.
- C) The ownership cannot be willed.
- D) The limited common elements cannot be sold separately.

**19. A person who owns one unit in a multiunit structure together with a specified undivided interest in the common elements would own a**

- A) cooperative.
- B) share in a real estate investment trust.
- C) condominium.
- D) time-share interest.

**20. Generally, an oral lease for five years is**

- A) illegal.
- B) unenforceable.
- C) a short-term lease.
- D) renewable only in writing.

**21. With a tenancy for years**

- A) the term of the lease must be for at least one year.
- B) no notice is required to terminate the lease.
- C) a 30-day notice is required to terminate the lease.
- D) the lessee has a freehold estate.

**22. The purpose of a security deposit is to**

- A) provide additional revenue for the landlord.
- B) repair damage to the property caused by the tenant.
- C) pay for the last month's rent.
- D) ensure that the lease is valid.

**23. The owner of real estate who leases it to another is called the**

- A) vendor.
- B) lessor.
- C) grantor.
- D) trustor.

**24. A tenant's lease has expired, but the tenant has not vacated the premises or negotiated a renewal lease. The landlord has declared that the tenant is not to remain in the building. This situation is an example of**

- A) an estate for years.
- B) an estate from year to year.
- C) tenancy at will.
- D) tenancy at sufferance.

**25. A tenant agrees to rent on a month-to-month basis after the termination of the original lease. This is known as an**

- A) estate for years.
- B) estate from period to period.
- C) estate at will.
- D) estate at sufferance.

**26. A family's apartment lease has expired, but their landlord has indicated to them that they may remain on the premises until a sale of the building is closed. They will be charged their normal monthly rental during this period. The right held by the family is called a(n)**

- A) year to year holdover.
- B) estate for term.
- C) estate at sufferance.
- D) tenancy at will.

**27. Under a percentage lease, a commercial lessee may agree to pay**

- A) maintenance.
- B) real estate taxes.
- C) insurance.
- D) a percentage of sales.

**28. A lessee is in possession of property under a tenancy at will. Which of the following is *TRUE*?**

- A) The lessee has not received the consent of the landlord to possess the property.
- B) The tenancy will terminate if the lessee dies.
- C) The tenancy was created by the death of the lessor.
- D) The tenancy has a definite termination date.

**29. The tenant leases a heated apartment, but the landlord fails to provide heat because of a defective central heating plant. The tenant vacates the premises and refuses to pay any rent. This is an example of**

- A) abandonment.
- B) actual eviction.
- C) constructive eviction.
- D) lessor negligence.

**30. Which of the following is the *BEST* definition of actual eviction?**

- A) Right of a landlord to use the rental premises
- B) Enforcement of a court order to remove a lessor
- C) Landlord's reversionary right in the rental premises
- D) Enforcement of a court order to remove a lessee

END

## Answers – TOPIC 1: Property Ownership - 2020 30Q

1. D
2. C
3. B
4. A
5. C
6. D
7. A
8. C
9. B
10. C
11. A
12. A
13. B
14. B
15. C
16. A
17. B
18. D
19. C
20. B
21. B
22. B
23. B
24. D
25. B
26. D
27. D
28. B
29. C
30. D