



CALIFORNIA BAR EXAMINATION CONTENT MAP REAL PROPERTY

The topics listed below are illustrative of those covered in Real Property, but are not exhaustive.

I. Nature and ownership of land

- A. Present possessory interests in land
 - 1. Fee simple absolute
 - 2. Defeasible fees
 - 3. Fee tail
 - 4. Life estates
 - a. Types
 - b. Alienability
 - c. Rights
 - d. Obligations
 - e. Waste
- B. Future interests
 - 1. Types
 - a. Interests retained by transferor
 - (1) Reversions
 - (2) Possibility of reverter
 - (3) Right of entry
 - b. Interests retained by transferee
 - (1) Remainders
 - i. Vested
 - ii. Contingent
 - iii. Shelley's case
 - iv. Worthier title
 - (2) Executory interests
 - (3) Characterization of remainders and executory interests
 - (4) Rules restricting remainders and executory interests
 - i. Rule against perpetuities
 - ii. Restraint on alienation
 - c. Problems that affect future interests
 - (1) Waste
 - (2) Unproductive property

- C. Concurrent estates (including those resulting from a formal or informal marital relationship)
 - 1. Joint tenancy
 - a. Creation
 - b. Characteristics
 - c. Termination
 - 2. Tenancy in common
 - a. Creation
 - b. Characteristics
 - c. Termination
 - 3. Tenancy by entirety
- D. Equitable interests in land under a trust
 - 1. Rights and duties of trustees
 - 2. Interests and rights of beneficiaries
 - 3. Charitable trusts
 - a. Rule against perpetuities
 - b. Cy pres doctrine

II. Landlord and tenant

- A. General
 - 1. Property vs. contract
 - a. Statute of frauds
 - 2. Lease vs. other relationships
- B. Types
 - 1. Tenancy for years
 - 2. Period to period
 - 3. Tenancy at will
 - 4. Tenancy at sufferance/holdover
- C. Duties and remedies
 - 1. Landlord's duties
 - a. Duty to deliver possession
 - b. Covenant of quiet enjoyment (express or implied)
 - (1) Actual, partial, and constructive eviction
 - c. Implied and statutory warranties of habitability
 - (1) Availability and fitness
 - (2) Repairs, maintenance, and safety
 - (3) Illegal lease and housing code violations.
 - 2. Tenant's duties
 - a. Duty to take possession
 - b. Duty to pay rent
 - c. Duty to repair
 - d. Duty not to commit waste
 - 3. Remedies for breach of duty
 - a. Tenant's remedies
 - (1) Withhold or abate rent

- (2) Termination of lease
 - (3) Repair defective conditions and deduct rent
 - (4) Sue for damages
 - b. Landlord's remedies
 - (1) Termination of lease
 - (2) Right to refuse rent
 - (3) Eviction
 - (4) Sue for rent and damages
 - (5) Distress
 - (6) Security deposit
 - (7) Options for tenant's abandonment/surrender
 - (8) Self-help
- D. Landlord's tort liability
 - 1. Strict liability (minority rule)
 - 2. Negligence
 - 3. Exculpatory clauses
- E. Retaliatory eviction
- F. Unlawful assignments and subletting
- G. Anti-discrimination in tenant selection
 - 1. Federal Fair Housing Act
 - 2. Families with children
- H. Purchase options
- I. Rent control
- J. Other bases for termination
 - 1. Frustration of purpose and illegality
 - 2. Destruction
 - 3. Eviction by title paramount
 - 4. Condemnation

III. Fixtures

- A. Definition
- B. Ownership
- C. Removal
- D. Security interests in fixtures

IV. Non-possessory interests in land

- A. Easements
 - 1. Nature and type
 - 2. Scope
 - 3. Alienability
 - 4. Extinguishment
- B. Profits
- C. Licenses
- D. Real covenants
 - 1. Creation

2. Running with the land
 3. Duration
 4. Termination
 5. Restrictive covenants and homeowners' associations
- E. Equitable servitudes
1. Creation
 2. Implied from common scheme
 3. Requirements for enforcement
 4. Equitable defenses
 5. Termination

V. Adverse possession

VI. Rights incident to ownership

- A. Right to support
- B. Air space
- C. Light
- D. Environment
- E. Invasion below surface
- F. Legal and equitable remedies relating to rights in land

VII. Other issues of ownership

- A. Nuisance
 1. Private
 2. Public
- B. Trespass
- C. Limitations on the right to exclude
- D. Cooperatives
- E. Condominiums

VIII. Public controls of land use

- A. Zoning
 1. Nonconforming use
 2. Variances and special exceptions
 3. Zoning amendments and spot zoning
 4. Contract and conditional rezoning
 5. Floating, cluster zones, and planned unit developments
 6. First Amendment concerns (billboards, adult entertainment, religious establishment exclusions)
 7. Exclusionary zoning and growth controls
- B. Eminent domain
 1. Public use
 2. "Just compensation"

- C. Land use controls and regulatory takings
 - 1. Subdivision control and site plan review
 - 2. Subdivision exactions, impact fees, linkages, and transfers of development of rights
 - 3. Protection of historic, aesthetic, and environmental concerns

IX. Conveyancing

- A. Land sale contracts
 - 1. Participants -- vendor/vendee
 - 2. Documents
 - a. Written contract -- statute of frauds
 - (1) Real estate listing agreements
- B. Deeds
 - 1. Parts of deed
 - 2. Delivery and acceptance
 - a. Conditional delivery
 - b. Delivery to third party
 - (1) Relation-back doctrine
 - 3. Warranties of title
 - a. Covenants of title
 - b. Types of deeds
 - 4. Breach of covenants
 - 5. Estoppel by deed
- C. Recording acts
 - 1. Types of statutes
 - a. Notice
 - b. Race-notice
 - c. Race
 - 2. Types of Notice
 - a. Actual notice
 - b. Inquiry notice
 - c. Record notice
 - 3. Effects of recordation
 - 4. Protected persons
 - 5. Chain of title
 - a. "Wild deeds"
 - b. Shelter rule
- D. Security interest
 - 1. Mortgages
 - 2. Deeds of trust
 - 3. Land contracts as security devices
 - 4. Sale-leaseback arrangements
- E. Marketable title
- F. Risk of loss
- G. Quality of construction and fitness for use

- H. Remedies for breach
 - 1. Liquidated damages
 - 2. Specific performance
 - 3. Vendor's lien
 - 4. Restitution
 - 5. Vendee's lien