

## RE 310 – Principles of Real Estate

### *What is Real Estate?*

#### Practice Homework Problems – Solutions

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- 1) What are the differences between real estate, real property, and personal property?

Real estate is the land, at, above, and below the earth's surface, plus all things permanently attached to it, whether permanent or artificial.

Real property refers to the legal rights associated with owning and possessing real estate.

Personal property is the legal interest in movable property that is not permanently affected to real estate.

- 2) Explain briefly each of the three tests used to by courts to determine whether an item is a fixture.

a) Intent Test – Did the person who installed the item *intend* for it to remain permanently on the property or for it to be removed in the future? This test can often be affected by local conventions.

b) Attachment Test – How permanent is the method of attachment? Can the item be removed without causing damage to the surrounding property?

c) Adaptability Test – Has the item been adapted to the real estate? Is it being used as real property or personal property? Would removal of the item substantially alter the usefulness of the remaining real estate? For example, storm door and windows specially designed to fit doors and windows would qualify as fixtures under the adaptation test.

- 3) What is the difference between a fee simple absolute estate and a qualified fee estate? Which of the basic rights is (are) limited in the latter?

A fee simple absolute estate possesses all of the fundamental legal rights listed above. In contrast, a qualified fee estate is a legal right subject to some specified event occurring or not occurring.

With a qualified fee estate, the rights of possession of control are limited by the condition specified in the deed.

- 4) What is the key difference between a joint tenancy and a tenancy in common? What must be true for a joint tenancy to exist?

In a joint tenancy, the co-owners have equal interest in the property and, most importantly, a right of survivorship, meaning that when any one of the joint owners dies, his interest transfers to the other joint owners, not the deceased's heirs.

In order for a joint tenancy to exist, the following unities must hold:

- Unity of time – The interests of the owners must have been created at the same time by the same conveyance.
  - Unity of title – The estate that each of the owners holds must be the same (e.g., fee simple, life estate, etc.)
  - Unity of interest – Each of the owners must hold the same fraction of ownership.
  - Unity of possession – Each owner has the right to possess the property subject to the rights of the others.
- 5) Give an example of an appurtenant easement for a property with which you are familiar. In your example, explain which property is the dominant tenement and which is servient.

I have a corner post for a fence on my property that extends across the property line, and my neighbor has granted an easement for this fence post. In this case, my property is the dominant tenement, and my neighbor's is servient.

- 6) Explain briefly the difference between the *annexation* and the *adaptation* tests that are used by courts to determine whether an item is a fixture.

The *annexation test* focuses on how permanently the item is attached to the real estate. Can it be removed without causing physical damage to the surrounding property?

In contrast, the *adaptation test* asks whether the item has been adapted to the real estate. Is it being used as real property or personal property? Would removal of the item substantially alter the usefulness of the remaining real estate? For example, storm doors and windows specially designed to fit the building would qualify as fixtures under the adaptation test.

- 7) A former colleague of mine owns some land on Lake Erie near Cleveland. What type of water rights does he have? What sort of uses are permitted under this system? How far back into the water does his property go? Can he retain these water rights when he sells the land (i.e., can he separate the water rights from the ownership of the land the way he can the mineral rights)?

Because his property borders Lake Erie (a commercially navigable lake), he has *littoral* rights to use the water. Essentially, these rights give him unrestricted use of the water, but his ownership extends only to the mean high-water mark. Littoral rights are *appurtenant* to the land, meaning that they will pass on to the new owner of the land when he sells it.

- 8) Give an example of a *determinable fee* interest in property and explain how it would differ from a *fee on condition subsequent* interest.

If I were to donate a parcel of land to the city “so long as” it is used as a city park, the city would own a *fee simple determinable* interest. If the city ever used the land for a different purpose, title to the land would automatically revert to me.

The key difference between this interest and a *fee simple on condition subsequent interest* is that title does not automatically revert to the grantor with a condition

subsequent interest. Instead, the grantor must take some action to reacquire possession. Fee on condition subsequent interests are typically used to prohibit some type of action or use, rather than to encourage one.

- 9) Suppose I have a *reversionary interest* in some property. Explain briefly what this means and how I would have obtained this interest.

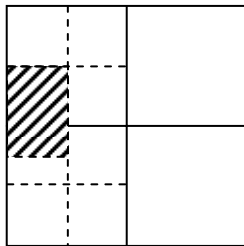
If I were to grant a life estate in some property to an individual and not name a *remainderman*, as grantor I would hold a *reversionary interest* in the property. Under this future interest, once the grantee died full ownership of the property would revert back to me.

- 10) What is the difference between an *easement appurtenant* and an *easement in gross*?

An *easement appurtenant* is an easement that is “attached” to a particular parcel of land. When either the property with the dominant estate or the property with the servient estate is sold, the easement is conveyed along with it and cannot be retained by the original owner.

An *easement in gross* is an easement that is unattached to any neighboring parcel of land, but exists instead to allow a particular use of the land. An example would be a utility easement.

- 11) What is the proper description of this shaded area of a section?



The SW  $\frac{1}{4}$  of the NW  $\frac{1}{4}$  and the N  $\frac{1}{2}$  of the NW  $\frac{1}{4}$  of the SW  $\frac{1}{4}$ .

- 12) The N  $\frac{1}{2}$  of the SW  $\frac{1}{4}$  of a section contains how many acres?

Sincere there are 640 acres in a section, this parcel contains  $640 \times \frac{1}{2} \times \frac{1}{4} = 80$  acres.

- 13) If a farm described as “the NW  $\frac{1}{4}$  of the SE  $\frac{1}{4}$  of Section 10, Township 2 North, Range 3 West of the 6<sup>th</sup> P.M.” sold for \$1,500 an acre, what would be the total sales price?

This farm contains  $640 \times \frac{1}{4} \times \frac{1}{4} = 40$  acres, so the total sales price is \$60,000.

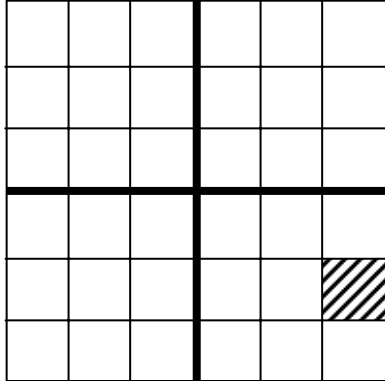
- 14) On what part(s) of a township are fractional sections found? Why are they needed?

Fractional sections found on the north and west borders of a township. They are needed to accommodate the fact that many townships are not exactly 6 miles by 6 miles square, either because of the curvature of the earth or errors in the original surveying process.

- 15) What are government lots?

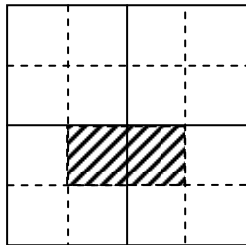
Government lots are portions of a section that are smaller than a quarter section, either because they are a part of a fractional section or because bodies of water cover part of the quarter section.

16) Give the proper description of the shaded township area in this illustration.



This township is T2S, R3E.

17) What is the proper legal description of the shaded portion of the section shown in the diagram below? How many acres does it contain?



The NE  $\frac{1}{4}$  of the SW  $\frac{1}{4}$  and the NW  $\frac{1}{4}$  of the SE  $\frac{1}{4}$ .

It contains  $640 \times \frac{1}{4} \times \frac{1}{4} \times 2 = 80$  acres.

18) What are *correction lines* and why are they needed in the *rectangular survey system*?

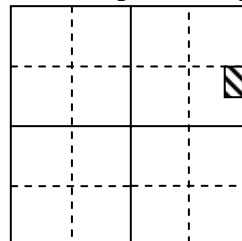
Every fourth township line is labeled a “correction line” and every fourth range line is labeled a “guide meridian.” These lines form an area that is exactly 24 by 24 miles square and is called a “government check.”

These lines are used to correct for the “round earth problem,” so that each township remains roughly 36 square miles regardless of its relationship to the principal meridian and the baseline.

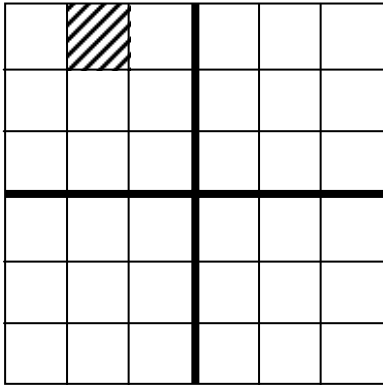
19) Jim purchased the NE $\frac{1}{4}$  of the SE $\frac{1}{4}$  of the NE $\frac{1}{4}$  of Section 22, T26S, R2W for \$1,500 an acre. What was the total purchase price? Draw a map of Section 22 showing the parcel purchased by Jim.

Jim has purchased  $640 \times \frac{1}{4} \times \frac{1}{4} \times \frac{1}{4} = 10$  acres, for a total purchase price of \$15,000.

The shaded portion of the section is Jim’s parcel.



- 20) Give the proper description of the shaded township area in this illustration. Assume that the dark lines are the principal meridian and the base line for this region. How many square miles will there be in this township?



- The township's legal description is T3N, R2W. There are roughly 36 square miles in each township.
- 21) Find and report the legal property description for some property that you, your parents, another relative, or a friend owns. Which method(s) of describing the property are used in the description?

The legal property description for my house is Reserve A in the Marsh Manor Addition to the City of Wichita, as shown by the recorded plat thereof.