INSTRUCTIONS:

Three hours and fifteen minutes (3 hours, 15 minutes), open book. You may have with you any written materials you would like.

The examination consists of four (4) equally-weighted questions. You should attempt to spend forty-five (45) minutes on each question. There is a fifteen (15) minute free grace period. Please be sure to read the directions carefully, and to answer what (and only what) you are being asked to answer.

Where necessary, please make and clearly state any relevant assumptions. Please attempt to write neatly, and be as concise as possible.

Please put only your examination number, and not your name, on any submitted materials.

THANK YOU AND GOOD LUCK!
Question 1
45 minutes

The late, sort-of great, Professor M died many years ago, alone except for his son, Little Dude, who had married Morgan (any Morgan), who in turn had given birth to the quadruplets, Frat Boys A-D. Professor M's Last Will and Testament, written in his dotage, gave his major asset, a ten-acre plot of undeveloped land on the fringes of Law-town known as The Dude Lot:

…to my son Little Dude, in life estate, and, on his death, remainder to those of my grandchildren who reach age 25, except for Frat Boy A, whom I am not sure can be trusted, so he should probably get some money in a spendthrift trust instead -- the ever-responsible Joseph can figure out the details.

The Dude Lot is perpetually covered in a thick fog. Little Dude with his then young sons had tried years ago to use a part of the lot, but the thick fog made habitability difficult and so they stayed away -- except for Frat Boy A, who would occasionally party in the fog. Sadly, Little Dude and Frat Boys B-D were all killed in a tragic fox-hunting incident while vacationing on a stretch of uninhabited wasteland as they were celebrating the boys’ 21st birthdays. Frat Boy A was mysteriously absent.

Meanwhile, Watermelon Woman (WW) owned a five-acre plot adjoining The Dude Lot to the south, bordering on its far side the main road to downtown Law-town. WW spent much of her time mixing and cross-breeding watermelons. WW laid down a fence along what she thought was the northern border to her lot, separating her from The Dude Lot, and planted a patch of her latest watermelon seeds against the fence. The seeds took root and vines began to spread prodigiously. More striking, the resulting melons seemed to have mysterious medicinal properties, alleviating exam anxiety and making ancient property doctrines seemingly crystal clear.

After his father’s and brothers’ funeral, Frat Boy A wandered over to The Dude Lot to try to find some solace. Instead, he found the mysterious Frat Boy E (FBE), who had some time ago built a small cottage within a substantial enclosure on the lot, all shrouded in fog. In a further twist – what did you expect? – FBE claims to be Professor M’s long-lost illegitimate son. While they are sorting things out, the ever-responsible Joseph appears on the scene and immediately commissions a survey of The Dude Lot, which reveals that WW had actually built her fence several feet onto The Dude Lot.

What are the possible ownership claims that people might make to The Dude Lot in its entirety, and/or to any parts of it (WW’s fence, Frat Boy E’s cottage), and/or to the watermelons? What remedies might a court order to resolve the various disputes?
Question 2
45 Minutes

Without anyone quite understanding why, Frat Boy A comes to own all of The Dude Lot in fee simple absolute. In a further, unexpected, twist, Frat Boy A also marries Watermelon Woman.

The happy young couple tear down the fence separating their lands and begin to work together cultivating watermelons, which begin to attract a cult following. WW builds a facility, which she calls Wonderful Watermelon World, on her lot, near the main road to Law-town, to sell the watermelons and watermelon-related products. Meantime, Frat Boy A surmises that somehow the fog from The Dude Lot is interacting with the watermelons to produce their magical effects, but he keeps this secret to himself.

Sometime after the wedding, WW, out of the kindness of her heart, had allowed FBE to remain in his cottage on The Dude Lot, for so long as he “pays a fair rent.” FBE began to pay WW $1000 a month, which WW used on her Wonderful Watermelon World project. WW also granted FBE, finally re-entering mainstream society, an easement from the cottage, across the Dude Lot and her plot, onto the main road. FBE records the easement. Frat Boy A, in his own private fog, was vaguely aware of the arrangements but said nothing about them.

In a final, rather expected, twist, WW and Frat Boy A decide to get divorced after some years of marriage. Sadly, as they were sorting through various property issues, things got nasty. Frat Boy A installed an immense fan to blow away the fog, causing a loss of potency to the watermelons. He also told FBE that he intended to double FBE’s rent, and further threatened to get an injunction preventing FBE from continuing to walk to the main road. Needless to say, everyone consults lawyers.

Write a memo setting out what anticipate to be the main property-related legal issues in:

A. The divorce proceedings between WW and Frat Boy A, and

B. Any legal action by or against FBE regarding the use of the cottage and adjacent lands.

Be sure to indicate what you think are the best arguments each side could make, and indicate how a court might rule, and why.
Question 3
45 Minutes

Somehow or another, Frat Boy A remains in sole possession of The Dude Lot, in fee simple absolute, after his divorce with WW is final. But over the years of multiple divorce-related legal actions, several things have changed. For one thing, Mad Matt, an aggressive real estate developer, noticed that The Dude Lot, without the fog, provided beautiful vistas, so he proceeded to build many luxury single-family houses on the nearby hills looking down over the lot, on land he had bought cheaply years ago when the fog was thick. For another thing, Alyssa (any Alyssa), who runs an orphanage to the east of The Dude Lot, where the fog was now being blown, began to notice that her young charges were developing various illnesses and lung disorders. For a final thing, Elliot (any Elliott) has become Mayor of Law-town.

Elliott convenes a meeting with Mad Matt, Alyssa, and Frat Boy A. At the meeting, Alyssa opens by stating that she is preparing a nuisance suit to go before a jury to get Frat Boy A to turn off the immense blower. Mad Matt says that he would bring his own action before Judge Jordan, a notorious wealth maximizer and supporter of single-family homes, to enjoin any action to shut off the blower as being a nuisance to his wealthy homeowners. To everyone’s surprise, Frat Boy A states that he is actually happy to shut off the blower, because, now that his divorce is final, he has a (secret) plan to start growing his own watermelons and to bring back Wonderful Watermelon World, though he needs access to the main road. Mad Matt then suggests passing a zoning law to prohibit all commercial and indeed all non-single-family residential uses in the valley beneath the luxury homes, an idea that Alyssa actually says she will support on behalf of the orphans, as long as the orphanage can stay. Frat Boy A says that he would in turn bring an action to make Law-town pay “big time” for any such move.

You are working as a law clerk to the now exasperated Mayor Elliott. He asks you to write him a memo – during a 45 minute break of course – briefly setting out your thoughts on:

A. The likely outcomes of the proposed nuisance suits;

B. The likely outcome of any proposed zoning or rezoning of the valley containing The Dude Lot;

C. Any quick ideas you might have on brokering a deal to settle the arguments among the parties, and to best benefit all the citizens of Law-town?
Question 4
45 minutes

Throughout the semester, in talking about Property and policy, we have encountered several recurring pairs of opposing ideas, or dualities. Consider the following:

a. Rules versus Standards
b. Property versus Liability Rules
c. Status versus Contract.

Choose one (1) of these pairs of opposites. Then, using a specific doctrinal area – for examples, “takings” law for rules versus standards, nuisance law for property versus liability rules, or family property law for status versus contract – write a coherent essay that:

A. Explains, with example(s) from case or statutory law, what the two sides of your chosen duality mean;

B. Shows how a court or legislature’s choice of one or the other side of the duality affects substantive rights and incentives to sue or not; and

C. Concludes by offering your own critical opinion of how the law uses the different sides in the duality: do you think this is good, or can it be improved, and, in any event, why?

END OF EXAM:
HAVE A WONDERFUL WINTER BREAK!