**Property Fall 20[XX] – Final Exam Essays & Answers – Professor [B]**

**Instructions for all essay questions:**

Assume that all cases (including majority opinions, concurring opinions and dissenting opinions) that have been covered in Property I are persuasive in New Suffolk, which is the fictional jurisdiction in the essay questions. Here are excerpts of relevant statutory provisions from the New Suffolk General Laws:

* Future interests are alienable, devisable and inheritable intestate.
* An action to recover the title to or possession of real property shall be brought within ten years after the cause of action thereof accrued, but if a person entitled to bring such action, at the time the cause thereof accrues, is under the age of majority, of unsound mind, or imprisoned, such person (or anyone claiming under that person) may bring such action within five years after such disability is removed.
* An objective standard should be applied to determine whether an action for adverse possession has been brought under a claim of right.
* If the property of a deceased person is not distributed according to a will or other instrument, then said property shall first be distributed to issue, then to ancestors, and then to collateral relatives.
* Every grant or devise of real estate, or any interest therein, shall pass all the estate or interest of the grantor or devisor, unless the intent to pass a less estate or interest shall appear by express terms, or be necessarily implied in the terms of the instrument.

**Question 1 (45 mins)**

When Dana’s parents passed away in 1980, they left their house on Blackacre to Dana. Dana continued to live in the home, even after getting married and starting a family in 1985. In 2000, Dana’s husband died. However, Dana continued to live on Blackacre with her daughter, Fiona, until Fiona left for college in 2003.

In 2010, Dana has the opportunity to move to Switzerland– a life-long dream. Fiona, who is then living in New York City and working as a fashion designer, tells Dana that she has no interest in returning to New Suffolk. Dana wants to keep Blackacre in her family so she decides that she’d like her cousin Eve to live on the property. Dana and Eve are practically like sisters because they grew up together on Blackacre; Eve’s parents had died when she was young so she had moved in with Dana’s family. Dana makes the following conveyance:

“I hereby convey Blackacre to my cousin, Eve, provided that and only so long as Eve does not attempt to sell the house. The house is not to be sold.”

Eve moves back on to Blackacre in 2010 and enjoys living there for several years. In 2014, Dana tragically passes away in an alpine skiing accident. According to Dana’s will, her daughter Fiona inherits all her personal property.

Eve is distraught by the news of Dana’s death and decides that she cannot live on Blackacre because the memories of Dana are too strong. She locks the house and moves to Florida. She puts the real estate taxes on auto-pay so that these are paid annually.

In 2019, Eve and Fiona decide to meet at Blackacre in order to commemorate the five-year anniversary of Dana’s passing. Fiona arrives first and is shocked by the state of Blackacre. The house has not fared well in the cold New Suffolk weather. She can see that roof shingles are missing, the glass is cracked, and that there are other serious problems. Fiona all of a sudden feels very sentimental about Blackacre and wants to move back—assuming that Eve will pay for all the repairs.

Meanwhile, on the way to New Suffolk, Eve receives a phone call from a real estate developer who says: “I received your contact information from the New Suffolk real estate tax office. I’d like to make you an offer on Blackacre.” The offer is for a staggering amount because of house’s prime location in New Suffolk. The amount is way more than Eve thought the property was worth. Eve is now curious whether she could get any other bids for the property, given that it has clearly appreciated in value.

**Given the current situation, discuss the parties’ interests in Blackacre and specifically address the following questions. What kinds of interests were created by Dana’s conveyance, and why? Are there any arguments that Eve could make that she should be permitted to solicit other offers for the sale of Blackacre? Does Fiona have any basis for reclaiming ownership of Blackacre and/or for holding Eve accountable for the repairs needed on Blackacre? Discuss the strengths and weaknesses of the arguments.**

**Essay 2 (45 mins)**

Linda owns a commercial building on Main Street in New Suffolk. Since 2007, she has rented the ground floor to Peter, who runs a pizza shop. Peter has continued to renew his lease, but the terms have remained the same.

Peter’s lease provides him with “approximately 2000 square feet of floor area, together with common right of access thereto, a common use of the parking lot, and one designated parking spot.” His current lease runs from January 1, 2019 until December 31, 2023 (i.e. five years); the rent is $2,000 per month.

The building faces on to Main Street, where there is an entrance to the pizza place, as well as a separate entrance for the rest of the units in the building. The building also has a common lot parking in the rear. Peter uses the one designated parking spot for his own car. The staff and customers of the pizza place use the common lot.

There is also a backdoor to the entire building, which the pizza shop regularly uses because it is helpful to customers who park in the lot. It also allows the shop to make pizza deliveries quickly because the delivery-person can pull a car right up to the back door.

In the spring of 2019, Linda has to make some repairs to the exterior of the building. Linda hires a contractor who tells her that the repairs should only take a week or so. Linda conveys this information to Peter, who decides to close his shop for that week and go on vacation.

When Peter returns, he sees that the construction is still ongoing. It is noisy and he has to keep his windows closed because of the dust. He opens his pizza shop but immediately notices that there are fewer customers and that his staff has trouble making on-time pizza deliveries.

The contractor built scaffolding all across the rear of the building, which largely blocks access to the rear door. In theory, a person can navigate the maze of scaffolding to enter through the rear door. In practice, few of Peter Pizza’s customers do this. In addition, it is difficult to use the back door for pizza deliveries. It’s hard to carry the pizzas through the maze of scaffolding, and it’s nearly impossible to bring a car close to the rear door.

Peter is also annoyed because the construction equipment encroaches a little on his designated parking spot, i.e. it goes over the white line into his space. He can still park in his spot, but, it is a tight squeeze.

Peter calls Linda to express his concerns, and she is very sympathetic. She says that the repairs are taking longer than expected and to be patient. She also says that she will deduct $100 from his monthly rent for the hassle.

Days turn to weeks and then to months. Every week, Peter calls Linda, and, every week, she explains why the repairs are continuing to take so long. His revenues from the pizza shop are down.

Although Peter has enjoyed having his pizza shop on Main Street, he is now thinking it is time to move. However, he is concerned about breaking his five-year lease, which he renewed on January 1, 2019.

**Peter calls you for advice. He would like you to explain his legal rights and his options. He does not want to leave if he will still be responsible for paying the rest of his five-year lease. What are the strengths and weaknesses of any claims that he can make? (You can address any issues that Linda would raise as part of the weaknesses in Peter’s claim).**

[end of document]