**Review Case Problems**

**Chapter 18**

\* You are **not** required to submit answers for these case problems. These questions provide you with the opportunity to practice critical legal thinking and review the chapter materials.

\*When answering a question, you should identify the issue, state the relevant rule of law, apply the law to the facts, and then reach a decision. I will post the answers at the end of each week. Contact me if you wish to discuss an answer.

**1.** A landlord leased a trailer park to a tenant. At the time, sewage was disposed of by a septic tank system that was not connected with the public sewage system. The tenant knew this, and the lease declared that the tenant had examined the premises and that the landlord made no representation or guarantee as to the condition of the premises. Some time thereafter, the septic system stopped working properly, and the county health department notified the tenant that he was required to connect the septic tank system with the public sewage system or else the department would close the trailer park. The tenant claimed that he was released from the lease and was entitled to a refund of the deposit that he had made. Was he correct?

**1.** *Issue:* Was the tenant discharged from the contract due to impossibility? Contracts are discharged by objective impossibility due to destruction of specific, unique subject matter, a change of law, or the death or disability of a party to a personal services contract. ,*Decision:* The tenant was not discharged from the contract. Discharge by impossibility is not granted for an unexpected increased burden or cost in the contract. Although it may be much less profitable, it is not impossible for the tenant to operate the trailer park. Connecting to the public sewer system significantly increases the tenant’s cost to operate the park, but this was a risk he took when he leased the park. The tenant knew the septic system was not connected to the public sewer, had an opportunity to inspect the property, and did not receive any guarantee from the landlord about the system.

**2.** The Metropolitan Park District of Tucson gave Grant a concession to run the district’s parks. The agreement gave the right to occupy the parks and use any improvements found therein. The district later wished to set this agreement aside because it was making insufficient money from the transaction. While it was seeking to set the agreement aside, a boathouse and a gift shop in one of the parks were destroyed by fire. The district then claimed that the concession contract with Grant was discharged by impossibility of performance. Was it correct?

**2.** *Issue:* Was the contract discharged by impossibility? Contracts are discharged by objective impossibility due to destruction of specific, unique subject matter, a change of law, or the death or disability of a party to a personal services contract. *Decision:* No. The contract was not discharged by impossibility. Although the boathouse and gift shop were destroyed, Grant can still operate the parks. There are other facilities Grant can use, or he could rent vending carts to replace the destroyed facilities. The city cannot discharge the contract just because the agreement is less profitable than it expected.