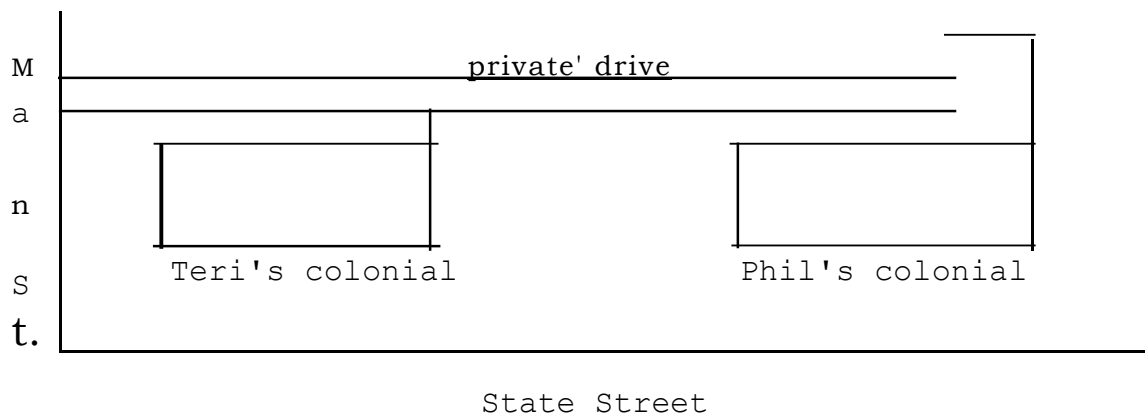


QUESTION 2 THE ANSWER TO THIS QUESTION SHOULD GO IN BLUEBOOK I

In 1980, Teri purchased a stately colonial home on a large double lot, located at the corner of Main and State Streets near picturesque downtown Oakland. A driveway provided access to Main Street behind the home. In 1990, Teri decided to build a complementary colonial home on the extra lot and sell it to her brother, Phil. As part of the construction, Teri extended the driveway so that it reached the new home as well. After construction was completed, Teri divided the property, and sold the new colonial and the land on which it sat to Phil.



At the sale, Teri gave Phil a warranty deed; the deed did not grant any right to Phil to use the driveway that passed over Teri's land, but Teri nonetheless allowed her brother to use it. Further, as a condition of the sale, Teri and Phil entered into a separate contract wherein Phil promised that he would never use his colonial for any purpose other than a family dwelling, and that the contract would be binding on Phil's heirs and successors. Both the sales contract and the separate contract were promptly and properly recorded with the Register of Deeds.

In 2010, Phil received an out-of-state job offer that he could not refuse and sold the house to Kevin. Kevin decided that the colonial would be the perfect location for his new business, the Caravaggio, a trendy art gallery designed to appeal to the recent influx of prosperous young professionals to Oakland. Needless to say, Teri was aghast at the thought of a business opening next door. Teri told Kevin that he could no longer cross her land on the driveway, and that the contract between Teri and Phil prohibited the use of the colonial as anything other than a family residence. Kevin retorted that the contract was not binding on him and he correctly noted that the land was zoned "residential or light commercial," which thereby allowed him to open his business.

He further stated that he will sue Teri for the right of continued use of the driveway for both himself and patrons of The Caravaggio.

Utilizing Michigan law, assess: (1) whether Teri can stop Kevin from using his colonial as an art gallery; and (2) what right Kevin and patrons of his business have to future use of the driveway. Explain your answers.

*****THE ANSWER TO THIS QUESTION SHOULD GO IN BLUEBOOK I*****