Property: Group issues by (1) how property can be acquired, (2) how property can be used, and (3) how a landowner can protect against interference of property rights.

Acquisition of Property → By Adverse Possession?

By Sale? (Land Sale K issues)

***If this is a sale acquisition issue, you should also look to deed issues as well (see below).

Statute of Frauds & Exceptions

Warranties and marketable title

Risk of Loss / Equitable Conversion

By Deed? (Either from sale or conveyance), Analyze sub-issues in the order given on the right.

1. Types of Deeds & corresponding covenants
2. Formalities of deed delivery
3. Recording acts (race-notice, notice, & race)
4. Mortgages, theories (lien or title) & priority of interests in case of foreclosure

Uses of Property (or exercise of property ownership rights in different kinds of factual situations)

Landlord-tenant relationships. Analyze sub-issues in the order given on the right.

1. Types of tenancies
2. Assignments & Subleases
3. Breach of lease issues
4. Remedies for breach
5. Improvements & Fixtures

Tenant’s breach & defenses
Landlord’s breach & defenses

Joint Tenancy
Tenancy in common
Tenancy by the entitlives

Co-tenancy relationships / Concurrent Estates issues

Separate creation & severance rules for each type of tenancy
General rules for use, ouster, partition, rents, accounting, & improvements
Exercise of non-possessory property rights (where someone else other than the landowner has some sort of relationship with the property)

Easements: Analyze sub-issues in the order given on the right.

1. Type of easement (appurtenant vs. en gross) and labeling of the estates (who are the dominant and servient estates)

2. Creation
   - Expressly
   - Impliedly

3. Scope & Operation issues
   - Misuse/overuse
   - Increase in use
   - Relocation
   - Repairs

4. Termination
   - 1. Estoppel
   - 2. Necessity ends
   - 3. Destruction
   - 4. Condemnation
   - 5. Release
   - 6. Abandonment
   - 7. Merger
   - 8. Prescription
   - 9. Stated conditions

Licenses & Profits

Restrictive Covenants

- Enforcing burden to run?
- Enforcing benefit to run?

Termination

- 1. Writing
- 2. Merger
- 3. Condemnation

Servitudes

- Enforcing burden to run?
- Enforcing benefit to run?

Termination

- 1. Writing
- 2. Merger
- 3. Condemnation

Note: This flow chart was prepared by Washburn Bar Services and is merely intended as a supplement to helping students gain practical comprehension of the MBE subject that it reflects. There may be more issues or more depth of issues that will need to be covered by students in a usual bar study. It is not intended to replace materials for a comprehensive bar program, such as BarBri or Kaplan.
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- Conveyancing of estates in land (in what form is owner giving land away, what are the restrictions with each type of estate, and how will they affect subsequent interests?)
  - Present Possessory Interests
    - Fee Simple Absolutes
    - Life Estates
      - Fee Simple Determinable
      - Defeasible Fees
      - Fee Simple Subject to Conditions Subsequent
      - Fee Simple Subject to Executory Limitation
  - Future Interests
    - Vested & Contingent Remainders
      - Executory Interests
        - Technical rules:
          1. Rules against perpetuities
          2. Merger
          3. Worthier title
          4. Shelley’s case
          5. Destructability of contingent remainders
  - Interference with Property rights
    - Trespass
    - Nuisance
    - Subadjacent support
    - Water Rights
    - Zoning
    - Takings / Eminent Domain