



PROPERTY
Practice Question 2

This is the Cover Page. Don't read the Practice Question that follows until you're ready to write an answer to it.

- *Topic Coverage: Section II.A.1*
- *Time: 60 minutes.*
- *Format: Closed book.*
- *I would suggest you spend 10-15 minutes of the 60 minutes outlining your answer before you begin to write it.*

Question

Assume the following events take place in the hypothetical state of Cania, a U.S. state.

Keyah lives in Cane City, Cania. She comes to you for advice. “I got my MBA from the University of Cania this past June,” she says, “and I’ll soon be moving to Singapore to work as an investment banker.”

“I’ve been living in a house in Cane City that I inherited from my late Aunt Astrid in July 2021. Housing prices have skyrocketed in other areas, but not here. The house hasn’t really gone up in value because the economy around here’s been so depressed—even before the pandemic, and still now. But it’s a charming little house in good shape, on a small parcel that’s two blocks from Cane Bay. I used to love to spend time there with Aunt Astrid when I was a child. Anyway, I was figuring I’d hold onto the house after I move to Singapore, so I’d have a lovely vacation home whenever I want to come back here and unwind.”

“Can you believe it, though? It turns out the state’s got some plan to revitalize the local economy by promoting a major new development with office parks, hotels, condos, and a new waterfront district on Cane Bay. They say the waterfront will attract tourists, and the whole project will attract businesses to relocate here. I haven’t been paying attention to the news—I’ve been too busy with my studies—but I gather the whole thing’s been in the works for years,” she says.

She goes on: “The state is saying it’s going to be using eminent domain as part of the development plan. That includes taking all the houses on my block and the adjacent blocks near or at the waterfront, and selling them to Wynzu Hotels. Wynzu will build a waterfront hotel on the parcels closest to the waterfront. It will use my house and the others on my block for a parking garage serving the hotel. The state says it’ll give me \$450,000 for my house, which I think is pretty much what it’s worth now. But I don’t want cash, I want my house! I remember reading about the Fifth Amendment to the U.S. Constitution in my college civics course—something about ‘nor shall private property be taken for public use, without just compensation.’ Doesn’t that protect me?”

“Another thing that drives me crazy is that I doubt this plan will even work. The state says its development planners are experts. But I read an editorial in the local paper claiming the plan may be flawed because other waterfront developments haven’t always attracted tourists in other states, so why should we be sure it’ll work in Cania? Not to mention sea level rise and hurricanes—how good an investment is a waterfront development in these times? Plus Wynzu got hit with a huge fine for paying some of its New York employees below-minimum wages. No wonder they always make such big profits. If that’s how they end up doing business in Cania, how much are they really going to stimulate the economy? My neighbor says she’s heard rumors that Wynzu has been making campaign contributions to members of the Cane City Council.”

“I’m really not asking for much,” she says as she signs the retainer agreement with you. “I just want to fend off this ridiculous effort to take what’s mine. We’ll just go to court and put a stop to this whole nonsense, right?”

Before she leaves, she adds: “I’m also really curious to know what you think the law *should* be on this issue. I hear that can be a complicated question.”

Write a memo in response to Keyah’s questions.

NOTE: The Cania courts, like other state courts, are required to apply the Fifth Amendment to the U.S. Constitution, and to apply U.S. Supreme Court precedent as to matters of U.S. constitutional law.