

PROPERTY (H)
Practice Examination

Please Read the Instructions.

This is a 60-minute closed book practice exam. **BEFORE** you begin to write your answer:

1. **Read the Question carefully;**
2. **I strongly suggest that you make an outline of your answer (though you do not need to hand it in — what counts is your answer).**

<i>Writing Instructions for ...</i>	
Handwriting	Laptop
Write your AGN on this copy of the exam and turn it in with your bluebook(s).	Write your AGN on this copy of the exam and turn it in when you're done with the exam.
Write your AGN on the cover of each bluebook.	ExamSoft will automatically print the AGN you enter.
Write on every other line – i.e., skip lines .	You may type single-space, as the Registrar will print out the answers double-space.
Write on one side of each page.	

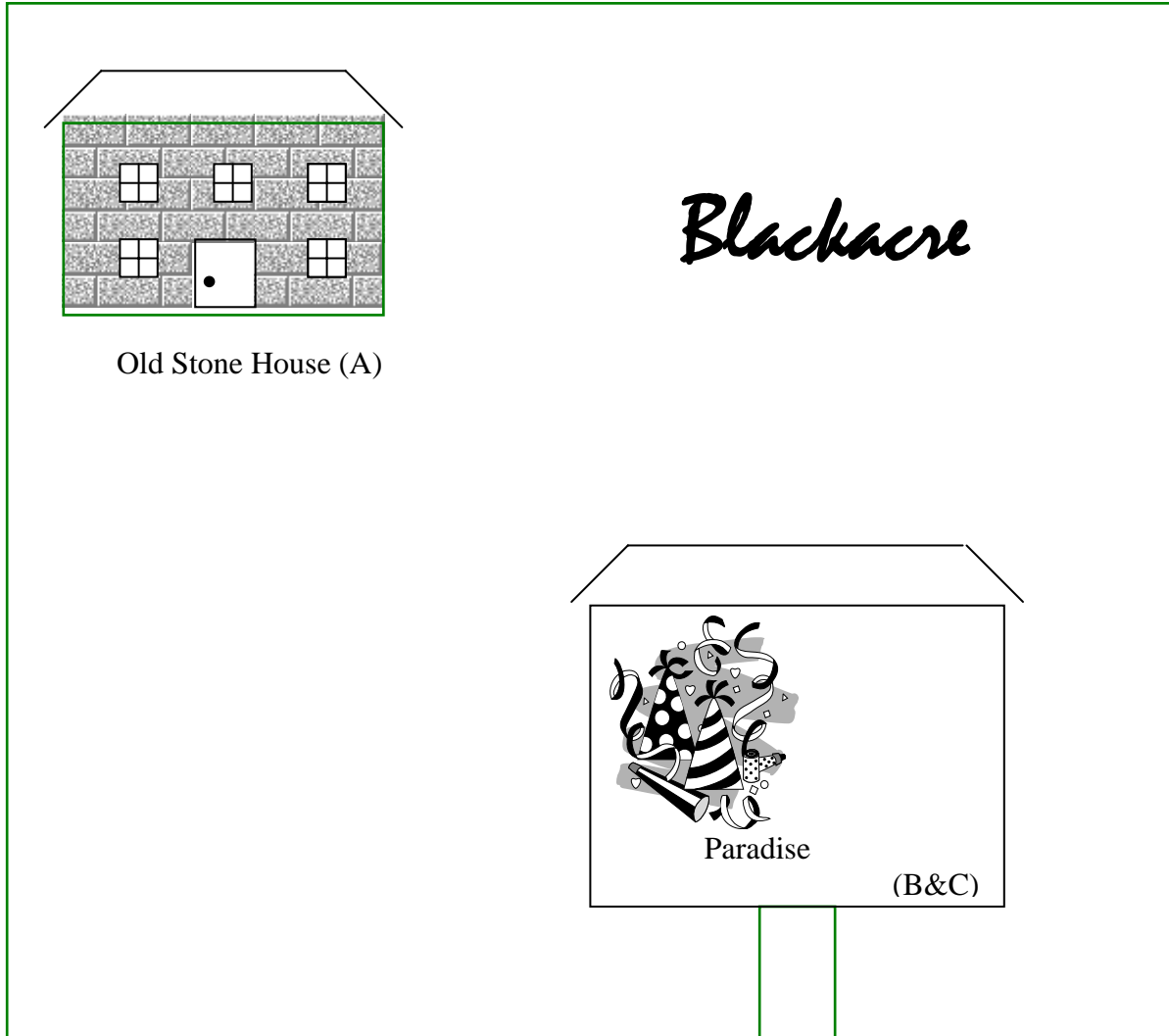
MANDATORY: WRITE YOUR AGN IN THE BOX BELOW AND TURN IN THIS COPY OF THE EXAM WHEN YOU ARE DONE.

AGN:

The purpose of this requirement is to ensure that all copies of the exam are returned to me. If you do not return this exam to the Proctor with your anonymous grading number (AGN) written in the box above, I will not read your bluebook or typed answer and I will inform the Dean of Students that the individual with that AGN did not comply with the requirements of the practice exam.

Question
(60 minutes)

NOTE: In reading the Question, you may find the following diagram and time chart (see next page) helpful. Keep in mind, however, that it does not contain all the facts you need to write an answer. For a real exam, you should be able to draw your own diagrams and make your own time charts.



South Blackacre Lane

D

01/02/88:	A buys Blackacre
09/3/88:	A is shot
09/4/88:	B&C enter Blackacre
2001:	A recovers mental functioning
2005:	D buys house across from Paradise
2006:	B&C experience mid-life crisis
10/4/09:	D requests legal advice

Blackacre is a 500-acre tract in the northern part of the state of Cania, which is still largely undeveloped. Very few people live in the vicinity year round; most of the houses are weekend cabins owned by residents of the city of Canetown who seek refuge from the noise and bustle of urban living.

Alberto, a resident of nearby Canetown, bought Blackacre on January 2, 1988, as a weekend retreat. At the northwestern edge of Blackacre was an old stone house surrounded by a small lawn. The rest of the property was mostly woods. Blackacre would be perfect, Alberto thought, for fox hunting on weekends. Unfortunately, on his first outing on Friday, September 3, 1988, a fellow hunter accidentally shot him in the head. The bullet wound left him in a coma; his relatives sent him to an out-of-state nursing home, where he spent the next 13 years.

On September 4, 1988, Beryl and Chris took a Saturday drive through northern Cania and fell in love with an area just inside the southeast corner of Blackacre, fronting South Blackacre Lane. Some local residents they talked to that day told them that the small piece of land they coveted was a part of Blackacre, whose owner had been shot the day before. Sensing an opportunity, Chris and Beryl immediately cleared a short trail starting from South Blackacre Lane. They named the place "Paradise" and put a sign up on the trail. Starting in October, they worked hard to make "Paradise" a wonderful weekend retreat. By mid-November they had built a charming log cabin at the end of the trail and cleared about 1/2 acre of land for a small vegetable garden. They began spending most of their weekends in Paradise except during December and January when the cold weather and snows made travel in that area difficult.

In 2001, newly developed surgical techniques enabled doctors to restore Alberto's full brain function and mental capacity. He returned to live in his house in Canetown. Given his painful memories of his last hunting venture at Blackacre in 1988, could never quite bring himself to go out to Blackacre again. He would keep Blackacre as a financial asset, he figured.

In 2005, Debby, another resident of Canetown seeking rural bliss, bought a cabin across South Blackacre Lane from Paradise, and started staying there weekends. Her patience was put to the test starting the next year, however. In 2006, Beryl and Chris experienced a mid-life crisis. In a desperate effort to recapture their lost youth, they began holding wild and raucous all-night parties at Paradise every weekend they were there.

Debby complained about the noise one day to a local resident with whom she'd become friendly. He told her, "You know, I think those scoundrels who built Paradise just took over part of Blackacre. I know they never paid for that property." Debby went to Alberto, and told him that she thought Paradise was on his property. Alberto was irritated by the thought

that someone might be horning in on his property, but he was preoccupied with his new plan to become a brain surgeon and didn't feel like bothering with legal matters.

After three years of living with her neighbors' parties, Debby is desperate. She hatches a plan to oust Chris and Beryl and take over Paradise for herself: She'll have a locksmith come in during the week and change the locks on the log cabin at Paradise. She could use the extra space herself, and, she figures, Beryl and Chris are no more entitled to it than she is.

But first, Debby wisely decides to consult you on October 4, 2009, telling you the foregoing facts. She says that she wants Beryl and Chris out of Paradise; if all she can get against the two is damages or an injunction prohibiting excessive noise, she'll drop any legal action and move instead.

(1) Beryl and Chris would probably not accept expulsion from Paradise without a fight. *How likely is it that Chris and Beryl would be able to get Paradise back from Debby if Debby went through with her plan to change the locks? Explain.*

(2) Debby tells you that despite Alberto's seeming indifference, she thinks that she may be able to get him to agree to take legal action, with you representing Alberto. "It may take some time to persuade him," she says, "but I'm pretty sure I'll be able to get him to bring an action."

What is the current state of Alberto's rights to Paradise? How likely is it that Alberto could succeed in ejecting Beryl and Chris? Explain. In answering this question, consider the specific ways that the court's attitude toward adverse possession doctrine might affect its holding. (You may assume that the case would be tried to a judge rather than a jury.)



Note on the law of Cania

Consider the following in answering subquestions (1) and (2): The common law is in force in Cania (including various common law doctrines regarding possession), together with the following statute (which is the only relevant statute):

Cania Statutes § 1:

A plaintiff maintaining a cause of action for recovery of possession of real property shall commence such action within 21 years after such cause first accrues; but if the plaintiff is under a disability at the time such cause first accrues, the plaintiff may bring the action within 10 years after the disability is removed, or within 21 years after such cause first accrues, whichever is later. For purposes of this section imprisonment shall be deemed a disability.^[1]

If you would need to know any other points of law (or facts), state what those are and why they would matter.

^[1] Note: The term "accrues" means "can be brought"; the time a cause of action "first accrues" means the time the cause of action "can first be brought."