CAMPUS ID: ____________________ COURSE: ____________________ PROFESSOR: ________________

THESE EXAMINATION QUESTIONS MUST BE RETURNED AT THE END OF THE EXAMINATION.

PROFESSOR'S INSTRUCTIONS

PROPERTY 104
PROFESSOR CARBONE
20 MULTIPLE CHOICE QUESTIONS
2 ESSAY QUESTIONS

DECEMBER 4, 2001
FALL SEMESTER
3 1/2 HOURS

CLOSED BOOK

THE EXAMINATION RULES STATED IN THE STUDENT HANDBOOK APPLY TO THIS EXAMINATION.

ANSWER THE EXAMINATION AS WRITTEN!

IF YOU BELIEVE A MISTAKE IN DRAFTING THE EXAMINATION HAS BEEN MADE OR THAT A QUESTION IS AMBIGUOUS, STATE YOUR ASSUMPTIONS IN YOUR ANSWER. YOUR PROFESSOR WILL REVIEW YOUR STATED ASSUMPTIONS IN GRADING THE EXAMINATION.

DO NOT ATTEMPT TO CONTACT THE PROFESSOR TO SECURE A CLARIFICATION.

INSTRUCTIONS:

This exam consists of two parts. Part I consists of 20 multiple choice questions. Part II consists of 2 essay questions. You must answer all of the questions. Suggested times are given below, but you may also allocate your time as you like. The credit given will be proportional to the time allowed. IN THE EVENT OF AN EMERGENCY, HOWEVER, THE MULTIPLE CHOICE QUESTIONS AND ANSWERS WILL BE COLLECTED SO THE SAFEST COURSE IS TO DO THE MULTIPLE CHOICE SECTION FIRST.

STOP!
INSTRUCTIONS FOR PART II ONLY:

1. Unless you are typing the exam, please write your answers in the blue books provided. Write on every other line and on every other page. (I.e., do not write on the backs of the pages. The ink shows through.) Begin each question in a separate bluebook. Write your student I.D. on the exam and on the outside of each bluebook.

2. You are in the State of Ecstasy, a mythical jurisdiction in which there is very little law except for that noted below, and in which the courts are influenced by precedents from other states. The State is part of the United States and as such is subject to federal laws barring discrimination on the basis of “race, color, religion, sex, familial status, or national origin.” Ecstasy has adopted the implied warranty of habitability, but never ruled on whether it can be waived.

QUESTION I (1 hour, 15 minutes)

Anita’s firm has recently been retained to represent Halcyon Apartments, a large apartment complex. After consulting with the owner, Madeline Murray O’Prayer, Anita learns that O’Prayer has been using a form lease in renting the apartments that includes the following:

1. This agreement shall run from _____, 200_ to _____, 200_. If Tenant does not vacate the apartment promptly at the termination of the lease, Landlord may, at her discretion, hold the tenant to double rent for the period of the holdover.

3. Tenant acknowledges that he/she has examined the premises subject to this lease and that he/she accepts such premises as being in good, safe, clean and sanitary condition and repair. In exchange for a rent reduction of ____ per month, Tenant agrees to:

   a) Keep the premises in good order and condition;

   b) Assume responsibility for any repairs of less than $1000;

   c) Immediately notify Landlord of any defects, dilapidation, or dangerous conditions;

   d) Promptly reimburse the Landlord for the cost of any repairs caused by tenant’s negligence, misuse or failure to repair or maintain the premises, or by the negligence or misuse of Tenant’s invitees, licensees, or guests.
4. Tenant shall immediately report to Landlord any change in the number or identity of the persons living on the premises, and any change in familial status, including but not limited to marriage, separation, divorce, domestic partnership, or the birth of additional children.

7. Tenant may not assign or sublet the premises.

O’Prayer also informs Anita that she has been having trouble with the tenant in Apartment 3G. Tom First signed a lease with the above clauses for a one bedroom apartment to run from July 1, 2000 through June 30, 2001. The lease provided for a rent reduction, in clause 3, of $50 per month, which was handwritten into the lease. His girlfriend, Terry Second, moved in with him sometime during the lease period. When they split up at the beginning of September, 2001, First moved out. Second stayed and has been paying rent in the same amount as that specified in First’s lease ever since. She has made no repairs to the apartment since First left, and the neighbors in the apartment below her have been complaining that leaking pipes from the sink in Second’s apartment are damaging their ceiling. When O’Prayer investigated the complaints, she discovered for the first time that First no longer lived in the apartment, and that Second was expecting a baby in January. Second (who has never seen First’s lease) told O’Prayer that she thought it was the landlord’s responsibility to make repairs, and that she could not afford to do so and still pay the rent. O’Prayer left Second with a few choice expletives about the morality of her behavior, and told her that she had no right to be in the apartment.

You are an associate working for Anita. She has asked you to write a memorandum advising her of the enforceability of the lease provisions set forth above, any grounds O’Prayer has to take action against Second, any defenses Second may have, and who is likely to prevail. She tells you that the leaking pipes will cost less than $1000 to fix, but the water damage caused by the leaking pipes may cost as much as $6000 to repair. You are to assume for purposes of this question that the only relevant clauses in the lease are set forth above. Consider how your answer would change if Second refuses to pay the December rent, claiming that the leaky pipes make the apartment uninhabitable.
QUESTION II (45 minutes)

Gerald’s will devises a large building to his alma mater, Elkhorn College, “so long as the building is used to house the Classics Department and Greek and Latin are taught in its classrooms; otherwise to revert to the grantor.” Gerald dies in 1950. By 1990, enrollment in Latin had plummeted and the building had become dilapidated. Elkhorn eliminates the Classics Department and remolds the building to accommodate a new computer lab, but continues to offer classes in ancient Greek, whenever there is sufficient demand. Greek has been taught in the building six of the last ten years.

Gerald’s great-granddaughter, Ginny, (one of 40 great-grandchildren) asks you to advise her whether there is any way that she and Gerald’s other heirs can reclaim the property. She tells you that she has spoken to Elkhorn’s attorney, who informed her that the Elkhorn Trustees had been unaware of the restriction when they voted to abolish the Classics Department. She also tells you that the College provided no information to alums about the change, though it did announce the termination of the program in the course catalogue distributed to undergraduates and prospective applicants. The words “Classics” etched in stone remain above the entrance to the building.

Advise Ginny of any grounds she has to reclaim the property, any defenses that Elkhorn is likely to raise, and her odds of prevailing.

END OF EXAMINATION
HAPPY HOLIDAYS!