

### Property rights

Bundle of sticks:  
 Right to exclude- essential stick in the bundle  
 Right to possess  
 Right to use  
 Right to destroy  
 Right to transfer/ alienate

### Remedies

Injunction  
 Treble Damages  
 Punitive Damages

### Competing Justification for Property Rights

First Possession  
 Labor/ investment  
 Efficiency/ maximization of social welfare  
 Distributive Justice  
 Sovereign Authority  
 Gifts and Inheritance

### Nuisance

A non trespassory interference with property rights (must be a substantial interference)

Analysis

- What is the harm
- What is the benefit
- Suitability for location of activity
- Fairness consideration
- Can nuisance be abated

Defense

- Who was there first
- Is P being sensitive

### Nuisance (cont)

Remedies

- Injunction
- Damages

### Trespass

Unprivileged intentional intrusion on property possessed by another  
 Criminal trespass- Asked to leave but do not  
 License: permission to enter property possessed by another (revocable)

### Trespass Defenses

Human Value  
 Necessity  
 Consent is effective even if procured by fraud

### Exclusion

Minority Rule: Cannot exclude unreasonably  
 Majority Rule: Right to refuse service to anyone unless they are protected by law. (This does not apply to common carriers and inn keepers)

### Improving Trespasser

Somebody builds on land and improves the value

### Zoning- taking of right

Factors

- type of project
- location of project
- ultimate cost
- amount accomplished under conformity

### Flexibility in Zoning: Variance

exceptional  
 undue hardship

### Landlord Tenant Law

Types of tenancy:

- terms of year: definite/ fixed period
- period tenancy: indefinite in length
- tenancy at will: terminated by either party at any time
- tenancy at sufferance: Relationship between LL and tenant who wrongfully holds over after termination

### Adverse Possession

Exclusive: (depending on customs of that land)  
 Open and Notorious: (visible)  
 Continuous: (Can use tacking approach)  
 Without owner permission: -  
 For a period of time set by the statute of limitations: -  
 Color of title: (Faulty paperwork- should convey title but does not) \*\*only in some jurisdictions

### Prescriptive Easement - Elements

Open and notorious	(acquiesce- owner knew but did nothing to stop)
Adverse and hostile	(open and notorious will be presumed to be adverse)
Continuous	-
Sustained	-

### Servitude

Appurtenant	runs with the land
In gross	For an individual
Express Easement	by grant
scope of easment	language of deed
	extrinsic evidence
	burden on servient estate
servient land	burdened land
dominant land	benefited land

### Steps to solve a servitude problem

- Is this appurtenant or in gross
- Benefit of each
- Look at language

### Easement by Estoppel

Cannot revoke license if it is relied upon

### Easement by Implied Prior Use

- 2 parcels were at one time in common ownership
- 1 parcel had derived benefit from the other parcel
- Use was apparent and continuous
- Continuation of use id "reasonably necessary"

### Real Covenant

Covenant in writing	
notice	actual, inquiry, record
intent for burden and benefit run with the land	
touch and concern the land	
privity	vertical and horizontal
-	-
Relief	Money damages

### Equitable Servitude Approach

covenant in writing	
notice	
intent	
touch and concern land	
-	-
relief	injunctive relief

### Implied Reciprocal Negative Servitude

Even if restrictions are not specified at the outset, they may be implied in the court of law

Doctrine: Common owner subdivides property into a number of lots

Common owner has an intention to create a common plan or scheme of development for the property as a whole

Vast majority of subdivided lots contain restrictive covenants that reflect the general scheme

The property against which application of an implied covenant is sought was intended to be part of the general scheme of development AND

### Implied Reciprocal Negative Servitude (cont)

The purchasers of the lot in question had notice (actual, constructive, or inquiry)

### Restrictions to Covenants

Can enforce restrictions as long as its not unreasonable

Restrictions/ covenants cannot be contrary to public policy