Chapter 1: Property ownership and land controls and regulations

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Chapter 1: Property ownership and land use controls and regulations

Key Concepts

Critical real estate concepts equaling approximately 15% of the state licensing exam.

- Classes of property
- Property characteristics
- Encumbrances
- Types of ownership
- Descriptions of property
- Government rights in land
- Public controls
- Environmental hazards and regulations
- Private controls
- Water rights
- Special categories of land

Key Terms

Fundamental real estate vocabulary likely to appear on the state exam with reference to the quiz questions illustrating its application. See the Real estate glossary on page 331 for the full definitions.

- adverse possession (q. 36)
- appurtenance (q. 37)
- easement (q. 17, 34)
- eminent domain (q. 21)
- encroachment (q. 47-48)
- encumbrance (q. 31-35)
- escheat (q. 4, 20, 21)
- estate (q. 38-42)
- hypothecate (q. 28)
- ingress and egress (q. 44)
- life estate (q. 30)
- lis pendens (q. 19, 35)
- police power (q. 8-10)
- reversion (q. 26)
- riparian rights (q. 12)
- section (q. 5)
- solar easement (q. 45)
- Subdivided Lands Law (q. 46)
- Subdivision Map Act (q. 11)
- tenement (q. 43)
- township (q. 6)
- zoning (q. 8, 10)

Note: This section is designed to give you a broad understanding of the basic principles which relate to the subject matter of this chapter. However, it is not exhaustive. For further reading on this concept, see your Real Estate Principles licensing course materials.
JUST THE FACTS

Classes of property

For most people, the term property means a physical or tangible thing, i.e., something which is owned, such as land, a car or share of stock. However, property is more broadly defined, focusing on the rights which arise out of the object. Thus, property is sometimes referred to as a bundle of rights in a thing, which for the purposes of this material is specifically real estate.

Property is anything which can be owned. In turn, ownership is the right to possess the property owned and use it to exclude others from entry.

The right to possess and use property includes the right to:

• occupy;
• sell or dispose;
• encumber; or
• lease the property.

Next, the classes of property are divided into two primary categories:

• real estate, sometimes called real property; and
• personal property, sometimes called chattel.

Real estate is immovable and illiquid. Personal property is movable and defined, by way of exclusion, as all property which is not classified as real estate. Both real and personal property can be hypothecated, i.e., used as collateral for a loan while the owner retains ownership of the asset. Personal property is transferred by a bill of sale signed by the seller. A search of public records will NOT show title to personal property, but will for real estate.

Bundle of rights go with the land and are real property. Appurtenances, incidental rights in adjoining property such as stock in a mutual water company, are real property as well. Crops can be real when, like a fruit tree, they remain after harvesting the fruit. However, crops are generally considered personal property when they are planted annually. Crops are also personal property when they are harvested, mortgaged or sold.

Property characteristics

The physical components of real estate include:

• the land;
• anything affixed to the land, such as a fixture;
• anything appurtenant to the land; and
• anything which cannot be removed from the land by law.

Real estate includes buildings, fences, trees, watercourses and easements within a parcel’s horizontal and vertical boundaries. Anything below the surface, such as water and minerals, or above the surface in the air space, such as timber, is part of the real estate.
A *fixture* is a personal property item which has become permanently attached to the real estate. When personal property becomes a fixture, it is part of the real estate and is thereafter conveyed with it.

**Fixtures test**
- M = method of attachment.
- A = agreement of the parties.
- R = relationship of the parties.
- I = intention of the parties.
- A = adaptability of the fixture.

**Trade fixtures**, which are used to render services or make products for the trade or business of a tenant, are always personal property. The primary component of real estate is **land**. **Land** includes:

- soil;
- rocks;
- other materials of the earth; and
- the reasonable airspace above the earth.

**Improvements** are the structures built upon land, including residential and commercial properties consisting of:

- **foundations**, generally built as slab foundations or as footings supporting floor joists and subflooring containing a crawl space below it;
- **framing**, consisting of:
  - *joists* and headers which are horizontal;
  - *studs* which are vertical; and
  - *rafters* which are angled to the roof beam; and
- **roofing**. [See Figure 1]

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**Figure 1**

**Roof Styles**

- Single Dormers
- Shed Dormer, or Dustpan
- Gambrel
- Gable
- Mansard
- Hip
- Pyramid
- Flat
Encumbrances

Easements are the right to enter or use another's land as an encumbrance on their title. A dominant tenement benefits from the easement. The servient tenement is burdened by the easement. Easements are classified as:

- **prescriptive**, a right of access gained through use;
- **appurtenant**, the right to cross or use a property which runs with the property as an interest held in the burdened real estate. For example, a buyer of real estate in which the seller possessed a dominant tenancy would gain that same right over the servient property when either property is transferred; and
- **in gross**, which belongs to an individual, not land, as their personal right in the burdened real estate, generally applied to a utility company.

Other interests in real estate can be created, such as **liens**. Liens are interests in real estate which secure payment or performance of a debt or other monetary obligation. A trust deed loan or local property taxes are examples of liens. On nonpayment of a lien amount, the lienholder can force the sale of the real estate to pay off and satisfy the lien.

A lien always has a dollar value. Further, a lien can be:

- **voluntary** (debt);
- **involuntary** (property tax, mechanic’s lien) placed against a specific property; or
- **general** (judgment, income tax) filed against the individual and applied to all real estate owned by them in the county where the lien is recorded.

Other encumbrances include:

- **encroachments**, which are a trespass upon a neighbor’s property; and
- **restrictions**, which are created by deed or by written agreement, such as conditions, covenants and restrictions (CC&R’s) in a community governed by homeowners’ association (HOA).

Types of ownership

The ownership interests a person may hold in real estate are called estates, classified as:

- **fee estates**, sometimes referred to as inheritance or perpetual estates; and
- **life estates**.

The owner of a **freehold estate** owns the **fee title** to a parcel of real estate. Fee title properties are held in perpetuity while life estate properties are held for a finite period of time.

When a life estate ends, the interest in the property is either:

- returned to the original owner, called a **reversionary right**; or
- transferred to another party, called a **remainder interest**.

There are also estates classified as **less-than-freehold**, known as leasehold estates. A leasehold estate comes in a number of agreements:

- **periodic tenancy**, such as a month-to-month rental;
- **estate for years**, such as a lease with a fixed term and termination date;
• **estate at sufferance**, such as a tenant's holdover of a property beyond the expiration of a lease; and
• **estate at will**, such as a tenant's continued occupancy beyond the lease term.

How would you describe a **condominium**? A **condominium** is a legal form of ownership rather than a building design. Any space that can be defined by an engineer can be made into a condominium. Therefore, ownership of a condominium is defined as **air space**. Since the building and land in which this air space exists is owned in common with other condominium owners, condominium properties generally contain a shared **common area**. This is also true of a **planned unit development (PUD)** which may be a gated community or include a recreation center.

On the state exam, condominium questions will refer to **air space** and PUD questions will refer to **common areas**.

The parties to a lease are the:

• **lessor**, the owner of the real estate; and
• **lessee**, the tenant.

**Rent** is compensation, usually paid periodically, and received by the landlord in exchange for the tenant's use, possession and enjoyment of the property.

In commercial real estate, rental payments may be arranged in different ways. A **gross lease** states that the rental amount includes all property expenses while a **net lease** states the tenant will be obligated to pay certain property expenses such as taxes, insurance and maintenance. A **percentage** lease states that rental payments will equal portion to the sales or income generated by the business of the tenant occupying the space.

Facts applicable to leases include:

• A lease in **excess of one year** must be in writing to be enforceable.
• Items that must be stated in a **written lease**:
  ° termination date;
  ° rental amount;
  ° name of the parties involved; and
  ° a description of the property.
• Written leases must be signed by the **lessor** (the owner of the real estate) to be enforceable.
• A copy of the signed lease must be given to the lessee within **15 days**.
• Agricultural leases cannot exceed **51 years**. Urban leases are limited to **99 years**.
• Transfer of a lease may occur by:
  ° **sublease** – the original lessee retains an interest in the lease and is responsible for the rental payment while the right of possession is given to another; and
  ° an **assignment** of the lease – all rights and possession are transferred to a new tenant.
• When the tenant relinquishes possession by mutual agreement with the owner, it is referred to as **surrender**. If the tenant relinquishes possession with no intent of returning and without the agreement of the owner, it is called **abandonment**.
• The security deposit on a residential rental is limited to two months’ rent on an unfurnished unit and three months’ rent on a furnished unit. Any unused security deposit needs to be returned within 21 days of the tenant’s surrender of the premises.

Descriptions of property
Specific property may be described in a variety of ways:

• metes and bounds, which sets forth all the boundary lines together with their terminal points and angles. Metes (length or measurements) and bounds (boundaries) description is generally used when a great deal of accuracy is required.
• lot, block, tract, based on a recorded subdivision map; and
• government survey, broken into a series of sections and townships. There are numerous questions on the state exam related to the size and location of sections, as well as the number and location of the three baseline and meridian systems in California, consisting of:
  ° Humboldt (north);
  ° Mt. Diablo (central); and
  ° San Bernardino (south).

Government rights in land
The authority of the California legislature to enact laws regulating real estate activities comes from four main constitutional powers (memorized by the acronym PETE):

• police power;
• power of eminent domain;
• power to tax; and
• escheat.

The California Constitution confers an equal power to local cities and counties to protect the public good, called police power. Police power is the basis for laws governing such things as highway construction and maintenance, rent control, zoning and traffic.

Eminent domain is the right of the government to take private property for public use. However, the government must pay the owner the fair market value (FMV) of the property taken. The process of using the power of eminent domain is called condemnation.

Examples of eminent domain include condemning property to:

• provide highways and roads;
• establish parks;
• construct flood control levees; and
• provide land for redevelopment.

State and local governments also regulate the crucial power to tax real estate activities to generate revenue and fund state and local governmental functions under their police power.

Similarly, escheat occurs when property reverts to the state government when someone dies with no will or heirs. There is no compensation and only the state government may acquire property through escheat, never an individual.
Public controls

Just as police power relates to government control of public health and safety, zoning and building codes relate to government control of real estate development.

New construction is built in conformance with public controls. Public controls are enacted through:

- state codes and regulations;
- zoning ordinances;
- local general and master plans; and
- building codes.

The Real Estate Commissioner administers the Subdivided Lands Law. The Subdivided Lands Law protects buyers from misrepresentation or fraud in the initial sale of a subdivided property of 160 acres or less.

A subdivision, which includes land, common interest developments (CIDs) and timeshare projects, cannot be sold in California until the real estate Commissioner issues a public report to be made available to buyers. The public report provides critical disclosures and information.

The Subdivision Map Act has to do with the physical aspects of a subdivision (locally controlled through general plans and planning commissions). The Subdivision Map Act is a California subdivision law setting forth the conditions for approval of a subdivision map and requiring enactment of subdivision ordinances under which local governments control the types of subdivision projects which may be undertaken and the physical improvements to be installed in an area.

Court procedures and judicial actions also relate to public controls, including:

- quiet title action, which clears a cloud from a property's title, known as perfecting the title;
- probate, a judicial proceeding to satisfy debt and properly distribute assets after a property owner's death;
- adverse possession, a method of acquiring title to real property through possession of the property by a person other than the owner of record for a period of five years in an open, notorious manner;
- intestate succession, when a property owner with heirs dies with no will, title is transferred through an order of the probate court; and
- execution sale, when a property is sold to satisfy a judgment.

Environmental hazards and regulations

Environmental hazards disclosure questions will likely be asked on the state exam, and will be discussed more thoroughly in Chapter 6: Practice of real estate and disclosures and Chapter 2: Laws of agency.

In regards to land use controls and regulations, a negative declaration regarding a proposed development means a subdivision does no harm to the environment.

Flooding, an environmental hazard, is considered “frequent” when it occurs more often than once every ten years.
Private controls

Private controls are limitations on an owner’s use of their property created by those other than the government, such as a developer or homeowners’ association (HOA).

Private controls may be created individually through:

- deed restrictions by an owner;
- a developer’s restrictions for a subdivision, including a Mello Roos district; or
- CC&Rs which place limitations on a property’s use mutually agreed to by all property owners in a condominium or PUD.

Water rights

Water is characterized in one of two categories based on its physical location relative to a parcel of real estate:

- surface water, consisting of watercourses, lakes, springs, marshes, ponds, sloughs, and any other water flowing over the surface of the earth caused by rain, snow, springs or seepage; or
- ground water, consisting of percolating, subterranean bodies of water located in underground basins.

Holders of rights to withdraw surface waters are said to have riparian rights, and are called riparian landowners. Holders of rights to pump ground water are said to have overlying rights, and are called overlying landowners.

Legal rights to extract and use water are based on priorities and are classified as:

- landowner’s rights consisting of both riparian and overlying rights;
- appropriative rights to withdraw water under license from the state; and
- prescriptive rights to withdraw water legally entitled to be used by others.

Alluvium refers to the boundary of a property that has changed due to the relocation of a river or stream. Accession is the physical addition to property through man-made efforts or by natural forces. Similarly, accretion is accession by natural forces only and refers to the gradual accumulation of additional layers of soil. Avulsion is the sudden decrease or increase of the earth on a shore of an ocean or stream resulting from the action of the water, such as occurs during a severe storm. Reliction is the gradual recession of water leaving land permanently uncovered.

Littoral rights refers to the property rights of a property bordering a pond, lake or ocean.

Additional words that apply to riparian rights are referenced in the Exam Jargon section in this chapter, and are defined in the glossary at the back of this book. You can expect the state to ask you about these.

Special categories of land

Every city and county has a planning commission, which is advised by the local agency planning department. The planning commission is tasked with reviewing and approving a general plan — governing the growth of their municipality.
A *general plan* sets forth acceptable land uses within a jurisdiction, including a statement of development policies on:

- land use;
- circulation patterns;
- housing;
- conservation;
- open space;
- noise; and
- safety.

Special categories of land may include:

- timeshares;
- resorts; and
- rural subdivisions.

### Exam Jargon

*Specialized real estate terminology related to property ownership and land use controls and regulations. See the Real estate glossary on page 331 for the full definitions.*

| accretion | alluvium | expansive |
| accession | appropriation | littoral rights |
| adobe | assemblage | reliction |
| alienation | avulsion |  |
| alkaline | deciduous |  |

### Sample Questions

1. The first component of real estate is land, which includes:
   - a. soil.
   - b. rocks.
   - c. reasonable airspace above the earth.
   - d. All the above.

2. The northeast 1/4 of a section contains:
   - a. 160 acres.
   - b. 320 acres.
   - c. 10 acres.
   - d. 40 acres.

3. How many square feet are in three acres of land?
   - a. 130,680
   - b. 217,800
   - c. 143,560
   - d. 43,560

4. An individual may obtain title by all the following means except:
   - a. grant.
   - b. escheat.
   - c. adverse use.
   - d. descent.
5. There are __________ baseline and meridian systems in California.
   a. 36
   b. 12
   c. 3
   d. infinite

6. Which of the following would be the least desirable reference point for a metes and bounds description?
   a. The corner of a section.
   b. A township line.
   c. The corner of a quarter section.
   d. A riverbank.

7. A lot contains 73,000 square yards. How many acres does this equal?
   a. 29
   b. 14.7
   c. 10
   d. 15.1

8. Which of the following statements regarding zoning is true?
   a. Zoning is never retroactive.
   b. Aesthetic values are not an interest in the establishment of zoning.
   c. Zoning always takes precedence over deed restrictions.
   d. Zoning law always keeps commercial and residential properties separate.

9. Before a new home can be occupied:
   a. all construction loans need to be paid off.
   b. a certificate of occupancy must be issued by the local building department.
   c. a notice of completion needs to be recorded by the owner.
   d. offsite improvements need to be complete.

10. On a zoning map, ‘M’ generally indicates:
    a. multiple use.
    b. multi-unit.
    c. manufacturing.
    d. mobile homes.

11. The Subdivision Map Act grants control to the:
    a. corporation counsel.
    b. Department of Real Estate (DRE).
    c. local government.
    d. state building inspector.

12. An owner with riparian rights has rights relating to the use and ownership of water from which of the following sources:
    a. rivers, streams and watercourses.
    b. oceans and bays.
    c. underground caves with water.
    d. swimming pools and watering systems.

13. Individual ownership of a lot and common ownership of other areas in the development constitutes a:
    a. fully improved subdivision.
    b. planned unit development (PUD).
    c. multi-unit apartment project.
    d. condominium.

14. The Real Estate Commissioner rescinds their approval of a subdivision by:
    a. issuing an injunction.
    b. issuing a writ of prohibition.
    c. revoking the developer’s license.
    d. issuing a desist and refrain order.

15. A roof on which all four sides slope to the eaves is classified as a:
    a. gambrel roof.
    b. gable roof.
    c. mansard roof.
    d. hip roof.
16. Real property does not include:
   a. watercourses.  c. fences.
   b. improvements. d. leasehold estates.

17. Which of the following is regarded as real property?
   a. Growing crops that have been mortgaged.
   b. Crops that have been sold but have not been harvested.
   c. Riparian rights.
   d. Trade fixtures.

18. A primary difference between real and personal property is that real property:
   a. can be held in joint ownership.  c. is always subject to depreciation.
   b. is immovable. d. can be willed.

19. A dispute over ownership rights and interests held in real property may be settled by:
   a. a quiet title action.  c. a declaratory relief action.
   b. a partition action. d. a lis pendens.

20. If a person dies without a will and with no identifiable heirs, the state acquires title to their real property through:
   a. patent.  c. escheat.
   b. condemnation. d. forfeiture.

21. Which of these rights of ownership do individuals not have?
   a. Severance rights.  c. Riparian rights.
   b. Eminent domain rights. d. Reliction rights.

22. Basic regulation of the housing and construction industries is performed by:
   a. the State Housing Act.  c. the state Contractor’s License Law.
   b. local building codes. d. All the above.

23. The general purpose of local building codes is to assure:
   a. the most efficient utilization of skilled labor.
   b. compliance with regulatory agencies.
   c. compliance with minimum construction requirements.
   d. cost effectiveness in building through uniformity of building standards.

24. Private restrictions on the use of land are best created by:
   a. verbal agreement.
   b. ratification.
   c. constructing a physical barrier around the property.
   d. recording the restrictions with the county recorder, with reference made in the deed to each parcel.

25. “Potable” means:
   a. drinkable water.  c. backfill.
   b. sewer systems. d. plumbing metal.
26. Placing two or more contiguous units under common ownership for the purpose of increasing 
the value is known as: 
   a. dual ownership. c. plottage. 
   b. severalty ownership. d. reversion. 
27. Which of the following is shown on a plot map? 
   a. Thickness of exterior walls. 
   b. Topography of the surrounding area. 
   c. Location of the improvement on the lot and its relationship to surrounding features. 
   d. Foundation features and construction materials. 
28. Personal property may not: 
   a. become real property. c. be alienated. 
   b. be hypothecated. d. None of the above. 
29. The physical components of a subdivision are controlled by the: 
   a. Department of Real Estate (DRE). 
   b. city or county planning commission. d. Division of State Lands. 
30. Mary held a life estate for her lifetime in a single family residence. She leased the residence to 
Martha for a five-year period, but died a few weeks after the lease began. The lease was: 
   a. invalid on its face, because the holder of a life estate does not have the right to lease 
   the property. 
   b. continued in effect for the full five-year term. 
   c. valid only during the life of the lessor (Mary). 
   d. valid only if Martha was unaware of the life estate when the lease was created. 
31. What notice is filed first in regards to a mechanic's lien? 
   b. Notice of Cessation. d. Notice to Perform or Quit. 
32. A subcontractor uses a __________ to notify a general contractor or the owner of their right to 
record and foreclose a mechanic's lien against property when they are not paid. 
   a. Notice of Default c. 20-day preliminary notice 
   b. Right of First Refusal d. 30-day Notice to Vacate 
33. Which of the following is not a specific lien? 
   a. A property tax lien. c. A judgment for punitive money 
   damages. 
34. Which of the following is a lien? 
   a. A recorded notice. c. An easement. 
35. If a lien covers all properties of the debtor in that county where it is recorded, it is known as a: 
   a. lis pendens. c. general lien. 
   b. specific lien. d. mechanic’s lien.
36. To establish title by adverse possession, an occupant must show all these except:
   a. they have occupied the property in a way which constitutes no notice to the record owner.
   b. the payment of taxes for five years.
   c. open and notorious use.
   d. hostile use.

37. Appurtenances go with the land. Which of the following is not an appurtenance?
   b. A swimming pool.
   c. Fences.
   d. A trade fixture.

38. Ownership rights and interests in real estate are called:
   a. land sales contracts.
   b. estates or fees.
   c. liens.
   d. tenancies.

39. Which of the following is an example of a freehold estate?
   a. Beneficiary interest.
   b. An estate at sufferance.
   c. A life estate.
   d. An estate at will.

40. All of the following are less-than-freehold estates, except:
   a. An estate for years.
   b. Leasehold interest.
   c. A life estate.
   d. An estate at sufferance.

41. Which of the following best describes an estate of indefinite duration?
   a. Estate for years.
   b. Life estate.
   c. Periodic tenancy.
   d. Estate of inheritance.

42. In what way is a tenant in an apartment like an owner of a condominium?
   a. Both hold a fee interest.
   b. The owner of the condominium and the tenant of the apartment each have an estate in real property.
   c. The local tax assessor needs to assess each property separately.
   d. Both have ownership of an individual unit.

43. The word “tenancy” in real property law most nearly means:
   a. life tenant.
   b. the method or mode of holding interest to real property by the lessee or owner.
   c. the landlord-tenant relationship.
   d. the right to freely sell a property to another in the open market.

44. Appurtenant rights include the right of ingress and __________ across adjoining properties.
   a. trespass
   b. traversal
   c. egress
   d. pro rata

45. Easements which restrict an owner’s ability to maintain or construct improvements interfering with a neighbor’s solar energy system are known as __________ easements.
   a. airborne
   b. solar
   c. galactic
   d. greenway
46. The Real Estate Commissioner, under the Subdivided Lands Law, is initially concerned with which court:
   a. Small Claims.  
   b. Superior.  
   c. Federal Supreme.  
   d. State Appeals.

47. An encroachment is:
   a. a fence built on an owner’s property for security and privacy purposes.
   b. an improvement on real estate, such as a building, fence, driveway or tree, which extends onto a neighbor’s real estate.
   c. a doctrine used by property owners to establish boundary lines.
   d. an exclusive right-to-use easement.

48. Upon moving into the home they had just purchased, the owner discovered their neighbor’s garage encroached four feet over his property line. If a friendly settlement cannot be negotiated, the owner may sue the:
   a. escrow company.
   b. title company.
   c. agent, for failure to disclose the encroachment.
   d. neighbor, since the encroachment is a trespass.

49. Lead-based paint was banned by the Federal Consumer Product Safety Commission in:
   a. 1940.  
   c. 1978.  
   d. 1996.

50. Environmental hazards located on a property which pose a direct health threat to occupants include toxic mold and:
   a. building materials containing asbestos.
   b. recent seismic activity.
   c. carbon dioxide gas.
   d. very high fire hazard severity zones.

**ANSWER KEY**

1.  d — Land is inclusive of all listed answer choices.
2.  a — There are 640 acres in a section. Divide this by four to find the area of a quarter section, 160 acres.
3.  a — An acre of land contains 43,560 square feet. Thus, three acres of land equals 130,680 square feet. The conversion of acreage to square feet is the most common type of math question on the state exam.
4.  b — An individual may not obtain title by escheat. Only the state government may acquire title through escheat.
5.  c — The three baseline and meridian systems in California are Humboldt, Mt. Diablo and San Bernardino.
6.  d — A riverbank may shift over time.
7.  d — The parcel of land is described in square yards. First determine how many square feet this equals by multiplying the square yard by 9. 73,000 x 9 = 657,000 square feet. Then, divide by 43,560 (the square feet in one acre). 657,000 / 43,560 = 15.1 acres.
8. **a** — **Zoning** cannot apply to existing structures, only structures to be built.

9. **b** — A **certificate of occupancy** issued by the building department is proof of habitability.

10. **c** — M = manufacturing, C = commercial, R = residential.

11. **c** — The **Subdivisions Map Act** is controlled by local authorities. **Subdivided Lands Law** is controlled by the DRE.

12. **a** — **Riparian rights** apply to all surface waters.

13. **b** — A **planned unit development (PUD)** has common areas in addition to individual ownership of a house.

14. **d** — To stop a development, the Real Estate Commissioner files a **desist and refrain order** against the developer.

15. **d** — A roof with four sides is called **hip**. A two-sided roof is **gable**.

16. **d** — A **leasehold estate** is less-than-freehold, and therefore not real property.

17. **c** — **Riparian rights** go with the land and are appurtenant to it.

18. **b** — Land is **immovable**, personal property is not.

19. **a** — **Quiet title** is a court action to clear clouds on a property’s title.

20. **c** — **Escheat** is a state action to revert property to government ownership when an owner dies with no will or heirs.

21. **b** — **Eminent domain** is the government power to seize property written into the U.S. constitution. **Reliction** refers to an increase in land bordering a body of water due to receding water.

22. **d** — All the above. Each entity plays a role in construction and housing standards.

23. **c** — **Local building codes** are not concerned with labor, regulation or cost effectiveness.

24. **d** — Of the answer choices provided, the best way to create a **private restriction** on the use of land is by recording the restrictions with the county recorder. However, a private restriction may also be created through a developer’s restrictions for a subdivision or through a written agreement.

25. **a** — **Potable water** is suitable for drinking.

26. **c** — The act of combining parcels of real estate is referred to as **assemblage**. The increase of value is referred to as **plottage**.

27. **c** — Beware of the incorrect answer **B. Topography**, referencing the lay of the land. Topography is not included on a plot map.

28. **d** — Beware of question construction phrased in the negative, “may not.” Here, you need to identify the answer selection that does not correctly complete the question. As personal property may undergo any of the activities referenced in all of the answer selections, **None of the above** is correct.

29. **b** — The **Subdivision Map Act** controls the physical elements of a subdivision which is overseen by local governments.

30. **c** — When a **life estate** ends, the ownership of the real estate transfers and therefore existing contracts also end.

31. **a** — An owner may prevent the attachment of a **mechanic’s lien** by recording and posting a Notice of Nonresponsibility within ten days after they become aware of tenant-contracted improvements.
32. c — Before a subcontractor employed by a contractor may record a mechanic’s lien against real estate and enforce it by foreclosure, they perfect their lien rights by serving a **20-day preliminary notice**.

33. c — A **judgment for punitive money damages** is filed against an individual rather than a specific property.

34. d — A **lien** always has a dollar value. Therefore, the only correct answer is the **attachment**.

35. c — As the lien attaches to multiple properties owned by the debtor, versus a specific property, it is referred to as a **general lien**.

36. a — This question is phrased in the negative. All other answer choices are conditions that need to be met to establish title by **adverse possession**. Tip: the answer choices in this question may provide the answer for later exam questions on this topic.

37. d — This question is phrased in the negative. **Trade fixtures** are personal property and do not go with the land.

38. b — Ownership might be a **fee title** or a **life estate**. Both are examples of a freehold estate.

39. c — A **life estate** is an example of a **freehold estate**.

40. c — Freehold is ownership. Less-than-freehold is a leasehold.

41. d — An **estate of inheritance** is a fee title. Therefore, it lasts in perpetuity — an indefinite time.

42. b — The question asks for what the owner and a tenant have in common. Both interests held by an owner and tenant are described as an **estate**.

43. b — As with the term “estate,” both the owner’s position as well as the lessee’s may be described as a “tenancy.”

44. c — Access rights include both **egress** and **ingress** (entering and exiting), such as with a driveway easement.

45. b — Solar panels are generally located on the roof of a structure. A **solar easement** prohibits the blocking of those panels from exposure to the sun.

46. b — The **Subdivided Lands Law** is controlled by the Department of Real Estate. Since this is a state entity, the process of elimination excludes the Small Claims, Federal Supreme and Appellate courts, leaving the Superior Court as initially handling real estate disputes.

47. b — **Encroachment** is an example of trespass.

48. d — The neighbor is the one who is trespassing and is the party the owner may sue.

49. c — Under federal law, a **lead-based paint disclosure** is required on all single family residential property built prior to 1978.

50. a — Building materials containing **asbestos** pose a direct health threat to occupants. Seismic activity and very high fire hazard severity zones are **natural hazards** occurring off of a property and are not man-made environmental hazards. Carbon dioxide gas is formed during respiration and is vital to sustaining life on earth. It is also not an environmental hazard.