

PROPERTY PRACTICE QUESTIONS

QUESTION 15

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Topic: Real Property

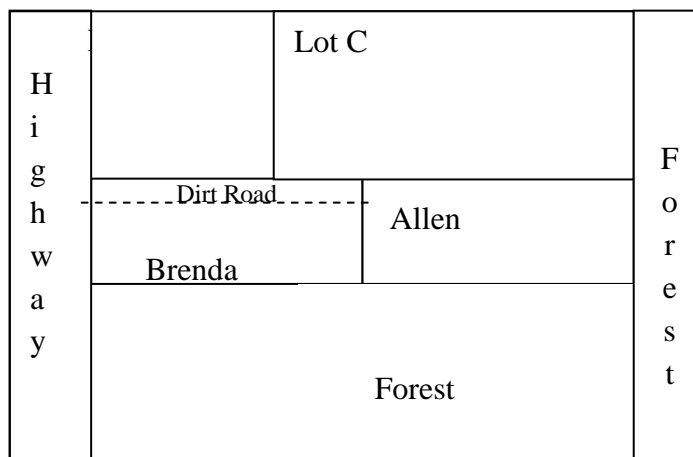
Sub-topics: Easements

Type: Essay

Difficulty: Moderate

Time: 45 minutes

In 1977 Allen Lafayette owned a tract of land outside of Huntsville Texas. In 1980, Allen divided his tract into two parcels and sold one of them to Brenda. Allen did not mention an easement in his deed to Brenda. Brenda's lot is now located west of Allen's. Brenda has direct access to the state highway which is adjacent to the west side of her property. Brenda uses a well-traveled dirt road on the north side of her property to get to the highway. This dirt road runs from the dividing line of Allen and Brenda's property directly to the highway and it existed at the time Allen sold Brenda her lot.



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Currently Allen has no direct access to the state highway. His lot is sandwiched between Brenda's lot to the west, lot C to the north, State Forest to the south, and National Forest to the east. Allen has been consistently using Brenda's dirt road to gain access to the highway ever since the severance of his estate. Allen often sees Brenda when he is using the dirt road on her property on his way to work. Brenda waves and gives Allen a friendly smile. However, in a week Brenda is selling her lot to Bart.

Does Allen have a right to use the road on Brenda's property? If yes, will Bart be burdened by Allen's easement after he purchases Brenda's lot? Explain your answers fully.