

# PROPERTY PRACTICE QUESTIONS

ANSWER 25

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1. **It entitles the owner to limited use or enjoyment of someone else's land**  
**It is enforceable against third parties**  
**It is not revocable by the land owner**  
**It is not a normal incident of the land possessed by the owner of the interest**  
**It may be created by a conveyance**
2. **D**
3. **T**
4. **F**
5. **B, D**
6. **A, D**
7. **C**
8. **Express Creation**  
**Creation by Implication**  
**Creation by Prescription,**
9. **Common Ownership**
10. **A, C**
11. **Whether a purported conveyance is an implied grant or an implied reservation has a bearing on the likelihood of party's success in court. An implied reservation is asserted by the grantor, the drafter of the deed, whereas an implied grant is**

asserted by the grantee. The courts are more likely to recognize an implied grant than an implied reservation because they reason that the grantor should have included an implied reservation in the deed at the time he drafted it.

12. T

13. A, C, D

14. Open and Notorious

**Adverse to the true owner's Claim of Right (same as "hostile")**

**Exclusive (even of the landowner)**

**Uninterrupted Use**

**Continuous Use (10 years)**

15. F

16. A, C, D

17. Reason

18. T

19. T

20. Necessity ends

21. Revocation by grantor of the license

22. Prescriptive Easement

23. Merger

24. E

25. F

26. A

27. B

28. D

29. C

30. F

31. **Enforceable Promise**

**Intent for the Promise to Run with the Land**

**Promise must touch and concern the land**

**Privity of Estate**

32. B, C

33. A, B, C

34. **Mutual Privity**

35. **Privity of Estate** (Mutual Privity or Horizontal Privity, Vertical Privity is not enough)

36. A

37. **Equitable Servitude**

38. **Notice**

39. C

40. A, B, C, D

41. D

42. **No** (Abandonment requires an oral release followed by an extended non-use or some other conduct that shows an intent to abandon. Pam has given no oral release; nor has Pam's non-use of the land been so extensive as to indicate an intent to abandon.)

43. D

44. **In Texas, both the benefit and the burden must touch and concern the land**

45. **Horizontal, vertical**

46. B, D

47. **Suitability of the activity**

**Compliance with zoning regulations**

**Priority of offending activity**

**Social utility of the activity**

**Cost of avoiding the harm**

48. F

49. **Right to Farm Laws**

50. T

51. **Public and Private**

52. **B** (liability for excavation lies with the person who excavated, not the future owners of his property)

53. C

While liability for removing the original support is in gross, the liability for *maintaining* the non-negligently built retaining wall runs with the land.

Had Jim's predecessor in interest built the wall negligently, then the liability would have stayed with him and not ran with the land.

54. **Subjacent**

55. C

56. **Surface water**

**Water in Watercourses**

**Ground Water**

57. **The Rule of Capture**

58. **B, C, E**

59. **Natural Servitude or Civil Law/Natural Flow Rule** (Under this approach, a person cannot interfere with the natural flow of the water and has to allow his neighbor's surface water to flow over his land. In this case, X would have a duty to let Y's surface water flow over his land.)

60. D

61. **The Civil Law Rule / the Natural Flow Rule**

**62. The Riparian System**

**The Prior Appropriation System**

**63. B**

**64. Correlative**

**65. T**

**66. T**

**67. Colorado Doctrine**

**68. California**

**69. T**

**70. Unity of Title Approach**

**Source of Title Approach**

**71. A, D**

**72. A, B**

**73. F**

**74. T**

**75. T**

**76. Ancient Lights Doctrine**

**77. A, C, E**