

Chapter 5 - Encumbrances

1. D

Explanation: Specific liens are financial encumbrances that attach to a particular property but do not affect the debtor's use of the property. Deed restrictions, easements, and encroachments are all non-financial encumbrances that affect the use of a property.

2. D

Explanation: Special assessment and real property tax liens take priority over all other liens. The mechanic's lien would be second in priority, since work commenced before either of the trust deeds were recorded.

3. B

Explanation: Lien priority for most instruments, including deeds of trust, is established by the time of recording. Remember the axiom: "First to record, first in right."

4. D

Explanation: Both liens for real property taxes and special assessments have priority over all other liens. A conflict between a property tax lien and a special assessment lien would be decided by which lien was created first.

5. A

Explanation: Deed restrictions are created by the grantor of the deed. In the case of a subdivision, that would be the developer of the subdivision.

6. D

Explanation: An easement may terminate if the dominant tenant indicates an intent to abandon the property, if a court finds that a prescriptive easement has not been used for the required time period, or if a servient tenant prevents the dominant tenant from using the easement for the required time period.

7. D

Explanation: A mechanic's lien must be recorded. A claimant who misses a statutory recording deadline cannot have a mechanic's lien. He may still sue the property owner, but may not have the property as security for the debt.

8. A

Explanation: A lien is a financial encumbrance where the property serves as security for a debt or obligation.

9. C

Explanation: Easements appurtenant run with the land. The dominant tenement was sold, so the rights to use the easement pass to the new owner of the dominant tenement -- in this case, Mr. Blonde.

10. C

Explanation: To terminate an easement by release, the owner of the dominant tenement will execute and record a quitclaim deed in favor of the servient tenant.

11. B

Explanation: A judgment lien is a general lien; it will attach to all property belonging to the judgment debtor within the county where the lawsuit occurred.

12. B

Explanation: Although easements are commonly across neighboring property, there is no requirement that the dominant and servient tenements are located next to each other. For instance, an easement holder might be able to reach his property by crossing over several lots in sequence.

13. B

Explanation: An easement in gross burdens a servient tenement, for the benefit of a dominant tenant. There is no dominant tenement. In fact, an easement in gross may be held by a person who owns no real property.

14. B

Explanation: A judgment lien is created after a court decision; an attachment lien is created prior to the outcome of a suit. An attachment lien may be against some or all of a person's property, but is used only where a plaintiff is concerned a defendant may try to sell property that could be subject to a future judgment.

15. B

Explanation: Mechanic's liens take priority according to the date work begins on a project, not the date they are recorded. Judgment liens, however, take priority according to the date when they are recorded.