

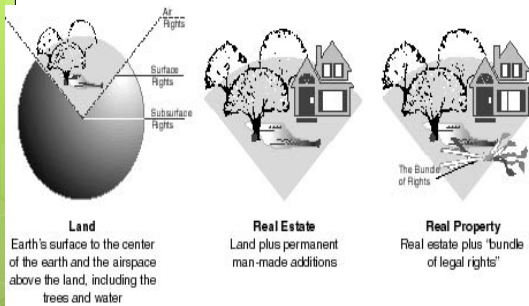
REAL PROPERTY AND THE LAW

Page 19 of the Outline

- Real Property -
Immovable
- Personal Property -
Movable

A. Land, Real Estate and Real Property

- Land
 - The Earth's surface extending downward to the center of the earth and upward to infinity, including permanent natural objects such as trees and water.

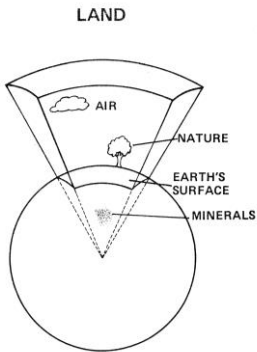


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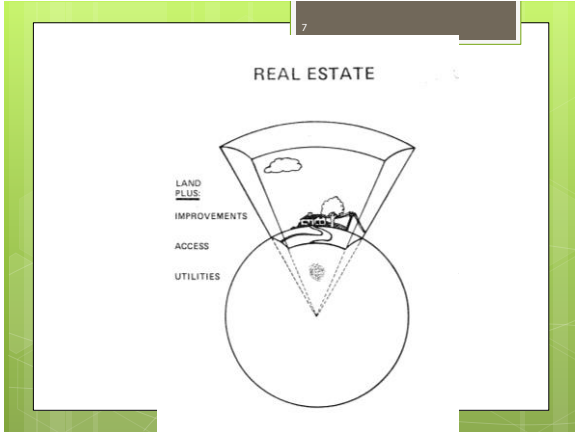
- Land
 - The Earth's surface extending downward to the center of the earth and upward to infinity, including permanent natural objects such as trees and water.

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- Real Estate
 - Land at, above and below the Earth's surface, plus all things permanently attached to it, whether natural or artificial.



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- Real Property
 - Land + Real Estate + the rights that go with it.

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B. Personal Property or "Chattels"

- Emblements - Cultivated Growing Crops (Fructus Industriales)
- Movable Fixtures
- Trade Fixtures
- Chattel Real

Personal Property

Emblements

- Growing crops, such as grapes and corn, that are produced annually through labor and industry; also called *Fructus Industriales* considered personal property

Personal Property

Movable Fixtures:

Water softener, range, cooler, etc.

Personal Property

Trade Fixtures



Personal Property

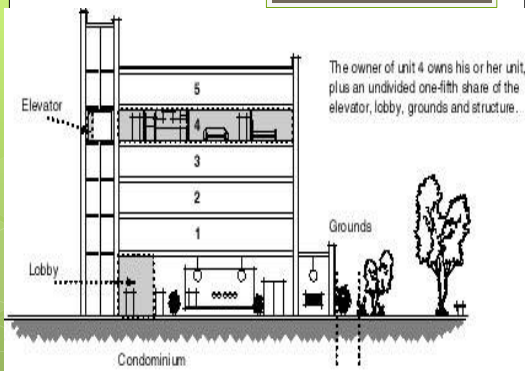
- Chattel Real:
 - Another term for personal property used in a business

C. Real Property

• Tangible Elements

- Land
- Uncultivated Growing Crops
- Minerals, Oil and Gas
- Appurtenances
- Geothermal Energy ("Sui Generis"-unique to itself)
- Fixtures

A right, privilege, or improvement belonging to and passing with a principal property. Not necessarily a part of the land such as an easement



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Fixtures

Defined:

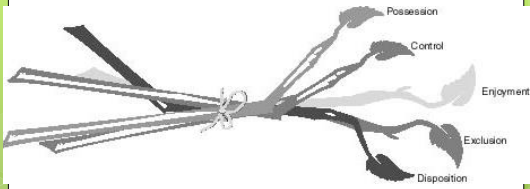
Personal property that's attached in such a manner as to become part of the real property

Tests Of A Fixture M.A.R.I.A.

- **M**ethod Of Attachment
- **A**greement Between The Parties
- **R**elationship Of The Parties
- **I**ntention Of The Attaching Party
- **A**daptation Of The Item






Real Property

- Intangible Elements



"Bundle Of Legal Rights"

A. Elements of Bundle of Legal Rights

-  **Possession—the right to occupy the premises**
-  **Control—the right to determine certain interests for others**
-  **Enjoyment—possession without harassment or interference**
-  **Exclusion—legally refusing to create interests for others**
-  **Disposition—determining how the property will be disposed of**

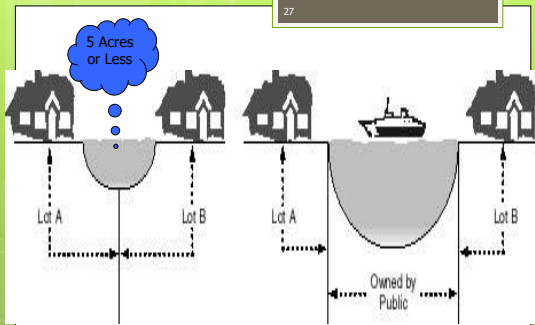
Elements of Bundle of Legal Rights

- Occupy and Use
- Build, Mine, Drill and Farm
- Mortgage
- Restrict Use
- Sell
- Exclude Others
- Give Away...

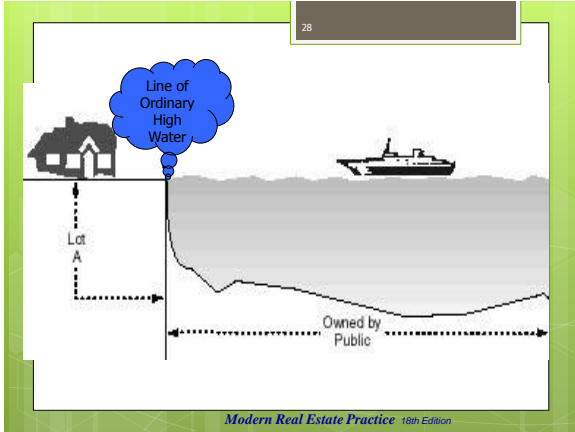
- Abandon
- Rent, Lease, or License
- Devise by Will
- Refuse to Exercise Any of the Above

Other Rights and Water Rights

- Separable and/or Divisible
- Subjacent and Lateral Support
 - The right to ground support for structures
- Water Rights – General Terminology
 - Riparian Rights - Public's right to use/enjoy river waters owned by the state for recreation
 - Littoral Rights – Same rights for lakes
 - Accretion, Erosion, Avulsion
 - Prior Appropriation – State appropriated water rights before individuals



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Water Terms

- **Accretion**
 - an increase by natural growth or by gradual external addition
- **Erosion**
 - land worn away by the action of water, glaciers, winds, waves, etc.
- **Avulsion**
 - sudden removal of soil by water

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Idaho Water Rights

- **Who Owns the Water** (The State)
- **What is a Water Right** (The right to divert public water)
 - Domestic, Agricultural, Commercial, Industrial
- **Surface Water** (Above Ground)
- **Ground Water** (Below Ground)
- **Procedure for Establishing a Water Right** (Depends on the right. First in Time First in Right)
- **Snake River Basin Adjudication** (Started in 1992)
- **Filing a Drilling Permit** (Licensed Well Driller, 13K gallons per day for domestic use, irrigation of 1/2 acre or less, stock)
- **Measurement of Water** (cubic foot per second)

Manufactured Housing

- Manufactured Home Dealer and Broker Licensing (Title 44, Chapter 21, Idaho Code) (License required)

- § 54 – 2003 (3) Selling a Mobile Home

•licensee ... acting on behalf of another, for compensation sells, lists, a mobile home, manufactured home or floating home shall comply with this chapter
