Applicant Number

MPT®
Multistate Performance Test

In re Canyon Gate Property Owners Association

By breaking the seal on this test booklet, I certify that I am taking the Multistate Performance Test (MPT) for admission to the bar and for no other purpose, and I affirm that I have read, understand, and agree to the following:

NCBE COPYRIGHT NOTICE AND PENALTIES. I will not copy or otherwise reproduce any MPT questions or answers by any means or disclose any MPT questions or answers to any unauthorized individual or entity before, during, or after the examination, whether orally, in writing, electronically, or otherwise. I acknowledge that the MPT is owned by NCBE and protected by US copyright laws, and that any unauthorized disclosure of its contents—in whole or in part—could result in civil liability, criminal penalties, cancellation of my test scores, denial of my bar application on character and fitness grounds, and/or other consequences, including disciplinary action if I have been admitted to practice law.

NCBE DATA USE. MPT testing information and data, including personally identifiable information, may be shared by your testing jurisdiction with NCBE for scoring, research, exam security, and statistical and other purposes. Such information and data are held by NCBE in accordance with the NCBE Privacy Policy (http://www.ncbex.org/privacy-policy), which also applies to information found in or provided by way of NCBE Accounts. NCBE may contact you via email after the test administration to ask you to participate in a voluntary survey regarding your testing experience.

NCBE LIMITATION OF LIABILITY. Each jurisdiction is responsible for handling test registration, test administration, requests for testing accommodations, and the reporting of scores for its bar examination. In the unlikely event that an error or mistake occurs or a claim arises relating to any of these activities, you agree that any remedy will be determined and provided under the exclusive authority and discretion of your jurisdiction. NCBE is not responsible for any such errors, mistakes, or claims.

If you do not agree to any of the above policies and procedures, do NOT break the seal on this test booklet and do not proceed with taking the MPT.

Read the directions on the back cover.
Do not break the seal until you are told to do so.

NCBE National Conference of Bar Examiners

302 S. Bedford St. | Madison, WI 53703 | 608-280-8550 | www.ncbex.org

In re Canyon Gate Property Owners Association

FILE

LIBRARY

FILE

FAWCETT & BRIX LLP
Attorneys at Law
425 Lexington Ave., Suite 100
Hayden, Franklin 33054

MEMORANDUM

TO: Examinee
FROM: Deborah Fawcett
DATE: July 27, 2021
RE: Canyon Gate Property Owners Association

Our client, Canyon Gate Property Owners Association, needs legal advice regarding a home improvement application. As you know, a property owners association is an organization in a subdivision or condominium building that makes and enforces rules for the properties and their residents. The Canyon Gate Association's rules are set forth in its Covenants, Conditions, and Restrictions (deed restrictions). The deed restrictions are enforced by the Association's architectural control committee (ACC).

Charles and Eleanor Stewart live in Canyon Gate. Last month they submitted an application to make certain improvements to their property. The Association's ACC denied the Stewarts' application on the ground that the requested improvements (a structure and a fence) would violate the Association's deed restrictions. The Stewarts will be attending the next Association board of directors meeting to appeal the ACC's denial of their application.

The board has asked our opinion whether the ACC properly denied the Stewarts' application so that the board can then take appropriate action. Please draft an opinion letter to the board analyzing and evaluating

(1) whether the board should uphold the ACC's denial of the Stewarts' application for a structure and a fence; and

(2) if the board affirms the ACC's denial and the Stewarts sue the Association, what outcome is likely and what potential remedies are available.

Be sure to follow the firm's guidelines for drafting opinion letters when preparing the letter. Do not include a separate statement of facts, but be sure to incorporate the relevant facts, analyze the applicable legal authorities, and explain how the facts and law affect your analysis.

FAWCETT & BRIX LLP

Attorneys at Law

INTEROFFICE MEMORANDUM

TO: All attorneys

DATE: January 6, 2020

RE: Opinion letters to clients

The firm follows these guidelines in preparing opinion letters to clients:

For each question presented:

1. State the question.
2. Provide a concise one-sentence answer.
3. Identify and analyze all issues raised by the question, including the strengths and weaknesses of the client's position where applicable. Be sure to discuss the relevant facts and law that support your conclusions.

Because this is an opinion letter, analyze each theory or issue and all elements or factors of each issue.

An opinion letter should be written in a way that clearly addresses the legal issues but also allows the client, who is not a lawyer, to follow your reasoning and the logic of your conclusions.

FAWCETT & BRIX LLP
Attorneys at Law

FILE MEMORANDUM

FROM: Deborah Fawcett
DATE: July 26, 2021
RE: Canyon Gate Property Owners Association; meeting with Jane Mendoza

---

Today I met with Jane Mendoza, the chair of the Canyon Gate Property Owners Association Board of Directors. The Association needs legal advice regarding a home improvement application submitted by homeowners Charles and Eleanor Stewart. This memorandum summarizes the interview.

- Canyon Gate is a small residential subdivision in northwest Hayden consisting of 45 single-family homes on lots that range in size from one to five acres.
- The Association has appointed an Architectural Control Committee (ACC) to oversee approvals and enforcement of the Association's Covenants, Conditions, and Restrictions (deed restrictions).
- The Stewarts have lived in Canyon Gate for approximately seven years. They own a 3,000-square-foot home located on a two-acre lot.
- On June 11, 2021, the Stewarts submitted an application to the ACC, along with plans and specifications, seeking approval for two home improvements: (1) construction of a new Structure to be located adjacent to their existing home and (2) installation of an eight-foot-tall Fence to be erected behind the Structure.
- The Structure would be located approximately 12 feet to the right of the existing home and set back 50 feet from the street.
- The Structure would be connected to the existing home by a roof-covered walkway without walls (a "breezeway"). The breezeway's roof would extend from the edge of the Structure's roof to the existing roof on the Stewart house.
- The Stewarts' application states that Mrs. Stewart's 72-year-old mother, Estelle, intends to move into the Structure so that she can live with them.

- The application states that the purpose of the Fence is to create an enclosed backyard for the Structure to prevent Estelle's dog from roaming the entire two-acre Stewart property and possibly getting lost or injured.
- According to the plans submitted by the Stewarts, the Structure will be 600 square feet (30 feet wide by 20 feet deep) and will contain a large living/sleeping area and a bathroom.
- The Structure would be the first of its type in Canyon Gate; there are no other lots in the subdivision that contain a guesthouse or other similar separately walled living area in addition to the originally constructed residence.
- In the past, the ACC has approved the construction of sheds and barns that comply with the requirements for outbuildings set forth in the deed restrictions.
- The ACC has never formally approved the installation of fences that are over six feet tall or that otherwise do not meet the requirements in the deed restrictions.
- A few homes in the community have some type of fencing that is noncompliant with the deed restrictions with regard to fence height, color, and/or material. Ms. Mendoza is not sure how many homes have nonconforming fences, but she did say that the nonconforming fences exist because of lax enforcement of the fencing requirements. For example, one former ACC member built a nonconforming fence on his lot without approval while serving on the ACC.
- On July 16, 2021, the ACC denied the Stewarts' requests to build the Structure and install the Fence.
- Following the denial, Ms. Mendoza received a call from Mrs. Stewart. Mrs. Stewart insisted that the ACC misapplied the deed restrictions with regard to the Structure and that a variance should have been granted for the Fence.
- The Stewarts have now requested a hearing before the Association's Board of Directors at its meeting on August 10, 2021.
- Ms. Mendoza and her fellow board members are concerned that if the board upholds the ACC's denial of the Stewarts' application, the Stewarts may challenge the decision in court.

Canyon Gate
Property Owners Association
www.cgatepoa.com

July 16, 2021
Charles and Eleanor Stewart
1401 Tanglewood Circle
Hayden, Franklin 33058

HOME IMPROVEMENT REQUESTS

Dear Mr. and Mrs. Stewart:

Thank you for submitting the Home Improvement Requests described below to the Canyon Gate Property Owners Association. After careful consideration, review of the plans and specifications submitted, and an on-site meeting with you to inspect the proposed location of the improvements, the Architectural Control Committee (ACC) has made the decisions noted below.

Request #1: Outbuilding

Decision: Disapproved

Reason: Per Section 5C of the Canyon Gate Covenants, Conditions, and Restrictions, the square footage of the proposed exterior building exceeds the maximum allowable limit per acreage.

Request #2: Eight-foot-high fence

Decision: Disapproved

Reason: Per Section 7A of the Canyon Gate Covenants, Conditions, and Restrictions, fences taller than six feet are not permitted.

Please email the ACC if you have any questions. If you wish to appeal either denial, you may request a hearing before the Association Board of Directors.

Sincerely,

Canyon Gate Architectural Control Committee

Excerpts from Canyon Gate Property Owners Association
Declaration of Covenants, Conditions, and Restrictions
(Adopted April 12, 1985)

SECTION 1. INTRODUCTION

The Canyon Gate subdivision is intended to embody superior standards of single-family housing. For the purpose of creating and carrying out a uniform plan for the improvements to lots within the subdivision, the following restrictions upon the use of said property are hereby established and shall be made a part of each and every contract and deed executed.

SECTION 2. ARCHITECTURAL CONTROL

A. Approval Required: No building, fence, wall, or other structure shall be constructed or maintained . . . until the construction plans and specifications for same shall have been submitted to and approved in writing by an Architectural Control Committee (ACC) composed of three or more representatives appointed by the Board.

B. Enforcement/Damages: These restrictions are for the benefit of each and every property owner in the subdivision, and may be enforced by the Association . . . , which shall be allowed to recover from a violating party all costs, attorney fees, and out-of-pocket expenses incurred in enforcement of any covenants herein whether by judicial means or settlement.

SECTION 3. GENERAL REQUIREMENTS FOR RESIDENCES

A. Minimum Square Footage: The living area (air-conditioned space) of a residence shall be a minimum of 2,800 square feet, excluding porches and garages, and shall be set back at least 30 feet from the front street right-of-way.

B. Residential Use Only: All lots shall be known and described as lots for residential purposes only. Said lots shall not be used for business purposes of any kind nor for any commercial, manufacturing, or apartment house purposes. Only one family residence may be erected, altered, placed, or permitted to remain on any lot.

***

SECTION 5. CRITERIA FOR BUILDINGS OTHER THAN RESIDENCES

Minimum standard for outbuildings: . . .

C. Size Restrictions: The maximum allowable square footage of all outbuildings shall not exceed 100 square feet per acre of a homeowner's lot.

***

SECTION 7. FENCE CRITERIA

A. Height Limits: Fences are limited to a maximum height of six feet. No fence having a height greater than six feet shall be constructed or permitted to remain in the subdivision.

***

SECTION 10. VARIANCES

Variances to the design standards and development criteria shall be granted only for a compelling reason and only if the general purposes and intent of the covenants and design standards are substantially maintained.

FAWCETT & BRIX LLP

Attorneys at Law

FILE MEMORANDUM

FROM: Deborah Fawcett
DATE: July 26, 2021
RE: Association Covenants, Conditions, and Restrictions defined

---

I have researched the common meaning of certain terms and concepts contained in the Association's Covenants, Conditions, and Restrictions. Below are my findings:

Residential Building

- a building which is used for residential purposes or in which people reside, dwell, or make their homes, as distinguished from one which is used for commercial or business purposes. The phrase "residential purposes" does not mean only the occupying of a premises for the purpose of making it one's "usual" place of abode; a building is a residence if it is "a" place of abode.

20 AM. JUR. 2D *Covenants* § 179 (2018).

Outbuilding

- [a] detached building (such as a shed or garage) within the grounds of a main building.

BLACK'S LAW DICTIONARY (11th ed. 2019).

- a structure . . . not connected with the primary residence on a parcel of property . . . [including] a shed, garage, [or] barn . . . .

www.definitions.uslegal.com/o/outbuilding/

LIBRARY

Excerpts from Franklin Property Code, Chapter 400

§ 401 Definitions

. . .

(d) "Restrictive covenant" means any condition or restriction that runs with the land and limits permissible use of the land.

* * *

§ 403 Construction of Restrictive Covenants

(a) A restrictive covenant shall be reasonably construed to give effect to its purposes and intent.

(b) A restrictive covenant may not be construed to prevent or restrict the use of property as a family home.

(c) This section applies to all restrictive covenants regardless of the date on which they were created.

§ 404 Enforcement of Restrictive Covenants

(a) A property owners' association may initiate, defend, or intervene in litigation or an administrative proceeding affecting the enforcement of a restrictive covenant or the protection, preservation, or operation of property subject to a restrictive covenant.

(b) A court may assess civil damages for the violation of a restrictive covenant in an amount not to exceed $200 for each day of the violation.

Foster v. Royal Oaks Property Owners Association
Franklin Court of Appeal (2017)

The Royal Oaks Property Owners Association (Association) sued Mark and Kathryn Foster to enforce the deed restrictions for the Royal Oaks subdivision after the Fosters erected a fence that violated certain restrictive covenants contained in the deed restrictions. The trial court entered judgment for the Association. We affirm.

Background

The Royal Oaks subdivision, in the city of Hayden, Franklin, is subject to deed restrictions that include specific setback requirements governing the placement of structures on each lot and other restrictive covenants. The Royal Oaks Architectural Control Committee (ACC), a three-member committee appointed by the Association and made up of homeowners in the subdivision, governs approvals of improvements to lots within the subdivision and enforces the subdivision's deed restrictions.

In June of 2015, the Fosters bought a lot at the corner of Eagle Drive and Tremont Road in the subdivision and received ACC approval of plans to build a house. The approved plans included a wrought-iron fence enclosing the backyard along Eagle Drive to be located 25 feet from Eagle Drive (the "Eagle Setback"). Nine months after the plan approval, an ACC member drove by the Foster lot and saw a wrought-iron fence being constructed 10 feet from Eagle Drive and thus significantly outside the 25-foot Eagle Setback. On learning of the fence relocation, the ACC sent a letter to the Fosters advising them to stop construction of the fence because it was too close to the street, in a location that had not been approved by the ACC. The Fosters ignored the letter and completed construction of the fence. They thereafter requested a variance to allow the noncompliant fence.

Discussions ensued between the Association and the Fosters, but no agreement was reached. When the Fosters failed to remove or relocate the fence, the Association sued seeking injunctive relief to enforce the restrictive covenants contained in the deed restrictions, a declaratory judgment affirming the Association's authority to enforce the restrictive covenants, and damages pursuant to § 404 of the Franklin Property Code. The Fosters filed a counterclaim, seeking a declaratory judgment that their fence did not violate the restrictive covenants or, alternatively, that the ACC had been arbitrary, capricious, and/or discriminatory in not granting the Fosters a "variance." Following a bench trial, the court entered judgment in favor of the Association,

granting the Association's requested injunctive and declaratory relief, and awarding $20,000 in damages pursuant to Franklin Property Code § 404, plus attorney's fees and costs.

The Fosters raise three issues on appeal: (1) the trial court misinterpreted the Royal Oaks subdivision restrictive covenants, (2) the trial court erred in upholding the ACC's denial of the requested variance, and (3) the trial court erred in assessing damages under § 404 without evidence of actual injury or harm.

On appeal, we review these Association actions de novo, applying two separate analyses. First, we must determine whether the Association correctly interpreted the restrictive covenant. Then, we must determine whether the Association properly applied the restrictive covenant.

Interpretation of the Restrictive Covenant

Restrictive covenants are a type of deed restriction. They are widely used in many neighborhoods to protect homeowners against construction that could interfere with their use and enjoyment of their property and/or impair property values. Restrictive covenants are a "contract between a subdivision's property owners as a whole and individual lot owners and are thus subject to the general rules of contract construction." *Coleman LLC v. Ruddock* (Fr. Sup. Ct. 1999). In construing a restrictive covenant, a court must ascertain the drafter's intent from the instrument's language, giving a restrictive covenant's words and phrases their commonly accepted meaning. *Id.*

At common law, covenants restricting the free use of land were not favored. However, in 1990, the Franklin legislature amended the Property Code to provide that all restrictive covenants contained in instruments governing certain residential developments must be reasonably construed to give effect to their purposes and intent. *See* Fr. Prop. Code § 403. The Franklin Supreme Court has held that § 403's reasonable-construction rule concerning restrictive covenants supersedes the common law rule of strict construction. *See Humphreys v. Oliver* (Fr. Sup. Ct. 2007).

The Fosters contend that the trial court erroneously interpreted the restrictive covenant regarding the minimum distances at which fences must be placed from Eagle Drive (i.e., the 25-foot Eagle Setback). Article III, Section 9 of Royal Oaks subdivision's deed restrictions prohibits any fence from being erected "*nearer to the street* than 25 feet" [emphasis added]. Section 14 provides that "to the extent not otherwise limited by these deed restrictions, no building or other structure shall be located *nearer to a side lot line* than five feet" [emphasis added].

The Fosters argue that although Section 9 requires fences to be located at least 25 feet from the street, Section 14 should govern here because the front of their house faces Tremont Road and

thus the side of their house (and side lot line) faces Eagle Drive. Because the lot extends to the edge of Eagle Drive, and the fence is 10 feet from the edge of Eagle Drive, they assert that the fence does not violate the deed restrictions because it is more than 5 feet from their side lot line (as required by Section 14).

This interpretation lacks merit. The five-foot setback in Section 14 specifically applies to a setback from the "side lot line" only "to the extent not otherwise limited by these deed restrictions." Section 9 deals exclusively with a fence's distance "from the street." Thus, the "side lot line" setback established by Section 14 does not apply because Section 9 requires a greater setback (25 feet) between fences and bordering streets. Accordingly, the trial court did not misinterpret the Royal Oaks deed restrictions.

Application of the Restrictive Covenant

The trial court found that the ACC acted properly in denying the Fosters' request for a variance for the Eagle Drive fence. On appeal, the Fosters assert that the ACC's refusal to grant the variance was arbitrary, capricious, and/or discriminatory.

An association's application of a properly interpreted restrictive covenant in a particular situation is presumed to be proper "unless the court determines that the association acted in an arbitrary, capricious, or discriminatory manner." *Cannon v. Bivens* (Fr. Sup. Ct. 1998). The Fosters thus had the burden at trial to prove by a preponderance of the evidence that the Association's denial of the requested variance was arbitrary, capricious, or discriminatory.

In *Mims v. Highland Ranch Homeowners Ass'n Inc.* (Fr. Ct. App. 2011), the court upheld a summary judgment finding that the defendant association had acted in an arbitrary, capricious, or discriminatory manner in denying a request to build a carport. In *Mims*, although the deed restrictions did not specifically prohibit carports, an ACC member told the homeowner that the carport plans would be denied "no matter what," and the ACC did not review the carport plans or even contact the homeowner to discuss the dimensions of the proposed carport.

Here, in contrast, the Fosters deviated from the approved plans for their home and the ACC attempted to work out other fencing options with them. Although the deed restrictions allow the ACC to modify deed restrictions under "compelling" circumstances, the Fosters failed to provide any justification, let alone a compelling one, for relaxing the 25-foot Eagle Setback. The evidence at trial supports the trial court's finding that the ACC acted properly in denying the requested variance.

Damages under Franklin Property Code Section 404

Finally, the Fosters assert that the trial court erred in assessing $20,000 in damages under Franklin Property Code § 404(b) because the damages were "unsupported by the evidence, manifestly unjust, and erroneous as a matter of law." They contend that a trial court may not assess damages unless there is record evidence that a violation of a restrictive covenant resulted in actual harm or injury.

The amount of damages that may be assessed under § 404 is not related to the showing of any type of injury or harm or the extent of such injury or harm; rather, it is related to the number of days that the violation takes place, without any reference to the existence, nature, or extent of any type of injury or harm. Nothing in § 404 indicates that the "damages" that the trial court may "assess" under subsection (b) are intended to be compensation for any actual harm or injury from the violation of a restrictive covenant. The trial court did not abuse its discretion in assessing damages of $20,000 under § 404(b).

Affirmed.

Powell v. Westside Homeowners Association Inc.
Franklin Court of Appeal (2019)

Richard Powell appeals the trial court's grant of a permanent injunction in favor of Westside Homeowners Association Inc. (HOA) requiring Powell to remove a vehicle parked on his front lawn in violation of certain restrictive covenants contained in the neighborhood association's deed restrictions. We affirm.

BACKGROUND

The HOA is a neighborhood association in the Westside neighborhood of Bradford, Franklin, and is governed by a board of directors. Property in the neighborhood is subject to certain deed restrictions recorded in January 1974 and enforced by the HOA Architectural Control Committee (ACC).

Powell owns a home on Claremont Drive in the neighborhood. In August 2016, Powell began parking a Chrysler Pacifica minivan on his front lawn, next to the driveway and under an oak tree. In September 2016, the ACC notified Powell that parking a vehicle in his front yard violated the HOA restrictive covenants and that the vehicle needed to be removed within 10 days. The letter also stated that if Powell disagreed, he could contact the ACC and explain his position. Powell did not respond or move the minivan. The ACC sent a second letter in October 2016 notifying Powell that the HOA was prepared to file suit against him for the ongoing violation and advising that he could request a hearing before the board within 30 days. Powell never responded. On February 6, 2017, the HOA sued Powell, seeking a permanent injunction requiring removal of the minivan. After a bench trial, the trial court granted the permanent injunction and assessed attorney's fees and costs against Powell.

DISCUSSION

Powell challenges the trial court's findings that Powell violated the restrictive covenants by parking his minivan on his front lawn. In the alternative, Powell argues that even if his actions did violate the restrictive covenants, the HOA waived its right to enforce the restrictions because the HOA allowed other homeowners to park their cars in their front yards.

We review de novo a trial court's conclusions of law. *Mistover LLC v. Schmidt* (Fr. Sup. Ct. 1987). Restrictive covenants are subject to the general rules of contract construction and are to be reasonably construed to give effect to their purposes and intent. Fr. Prop. Code § 403(a). The restrictive covenant at issue provides, in relevant part, that "No vehicles . . . shall be parked or

stored between the curb and building line of any lot, other than on a paved driveway." Although restrictive covenants cannot restrict or prevent the use of property as a family home, *id*. § 403(b), the restrictive covenant here does not affect Powell's ability to use his property as his home. Rather, it simply requires him not to park his minivan in his front yard. Although this restriction was recorded in 1974, before Franklin Property Code § 403 was enacted, § 403 applies retroactively to create a presumption that the restriction is reasonable. *See id*. § 403(c).

Powell admits to parking his minivan on his front lawn, which is between the curb and the building line of his lot. In doing so, Powell violated the deed restriction.

We reject Powell's contention that the HOA waived its right to enforce the deed restriction. To demonstrate a waiver of restrictive covenants, a party must prove that "the violations then existing were so extensive and material as to reasonably lead to the conclusion that the restrictions had been waived." *Larimer Falls Comm. Assoc. v. Salazar* (Fr. Ct. App. 2005). The number, nature, and severity of the existing violations are factors to consider in determining waiver. *Id*.

Franklin courts have repeatedly found that the evidence was insufficient to support a finding of waiver when 1% to 10% of properties violated the restrictive covenants at issue. For example, no waiver has been found where 4 of 62 lots had nonconforming fences, 2 of 33 lots contained unapproved access roads, 10 of 180 houses violated setback requirements, and 15 of 150 homeowners stored prohibited recreational vehicles on their property. *See id*. and cases cited therein.

At trial, the chair of the ACC testified that in the five years preceding the lawsuit, she had not seen any other vehicles parked on the front lawns of other properties in the neighborhood. Powell did not produce any evidence to support his allegation that other homeowners parked their cars in violation of the restrictive covenant.

The trial court properly issued the permanent injunction. Affirmed.

NOTES

NOTES

NOTES

MULTISTATE PERFORMANCE TEST DIRECTIONS

You will be instructed when to begin and when to stop this test. Do not break the seal on this booklet until you are told to begin. This test is designed to evaluate your ability to handle a select number of legal authorities in the context of a factual problem involving a client.

The problem is set in the fictitious state of Franklin, in the fictitious Fifteenth Circuit of the United States. Columbia and Olympia are also fictitious states in the Fifteenth Circuit. In Franklin, the trial court of general jurisdiction is the District Court, the intermediate appellate court is the Court of Appeal, and the highest court is the Supreme Court.

You will have two kinds of materials with which to work: a File and a Library. The first document in the File is a memorandum containing the instructions for the task you are to complete. The other documents in the File contain factual information about your case and may include some facts that are not relevant.

The Library contains the legal authorities needed to complete the task and may also include some authorities that are not relevant. Any cases may be real, modified, or written solely for the purpose of this examination. If the cases appear familiar to you, do not assume that they are precisely the same as you have read before. Read them thoroughly, as if they all were new to you. You should assume that the cases were decided in the jurisdictions and on the dates shown. In citing cases from the Library, you may use abbreviations and omit page references.

Your response must be written in the answer book provided. If you are using a laptop computer to answer the questions, your jurisdiction will provide you with specific instructions. In answering this performance test, you should concentrate on the materials in the File and Library. What you have learned in law school and elsewhere provides the general background for analyzing the problem; the File and Library provide the specific materials with which you must work.

Although there are no restrictions on how you apportion your time, you should allocate approximately half your time to reading and digesting the materials and to organizing your answer before you begin writing it. You may make notes anywhere in the test materials; blank pages are provided at the end of the booklet. You may not tear pages from the question booklet.

Do not include your actual name anywhere in the work product required by the task memorandum.

This performance test will be graded on your responsiveness to the instructions regarding the task you are to complete, which are given to you in the first memorandum in the File, and on the content, thoroughness, and organization of your response.