Chapter 1 Summary
Real Property Characteristics and Rights
Kentucky Prelicense

The legal concept of land encompasses:

- The **surface area** of the earth
- Everything **beneath** the surface of the earth extending downward to its center
- All **natural things** permanently attached to the earth or in the ground
- The **air** above the surface of the earth extending outward to infinity
- **Minerals and water** on or below the earth’s surface

A *parcel*, or *tract*, of land is a portion of land delineated by boundaries.

Physical characteristics of land: **Immobility**, **Indestructibility** and **Heterogeneity**.

The Five *Economic* characteristics of land:

1. **Demand**
2. **Utility**
3. **Scarcity**
4. **Transferability**
5. **Situs**

The legal concept of real estate encompasses:

- Land
- All man-made structures that are *permanently* attached to the land – **improvements**.

Property is not only the item that is owned but also a **set of rights** to the item enjoyed by the owner.

Our legal system has four ways of classifying property: **real, personal, tangible, and intangible**.

The bundle of rights:

- **Possession**
- **Transfer**
- **Encumber**
- **Exclude**

The bundle of real property rights also applies separately to the individual components of real estate: the **air**, the **surface**, and the **subsurface**.

The **Doctrine of Prior Appropriation** requires that property owners obtain permits for use of water.

- **Littoral rights** concern properties that border bodies of water that are not moving.
- **Riparian rights** concern properties that border moving water such as streams and rivers.
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Land gain or loss due the action of water:

- Accretion
- Erosion
- Avulsion
- Reliction
- Alluvion

The primary way of distinguishing between real and personal property is to determine whether the item is permanently attached to the land or to structures attached to the land.

Personal property that has been converted to real property by attachment is called a fixture.

Original intention can override the test of movability in determining whether an item is a fixture or not.

If an item is uniquely adapted to the property, it may be deemed real property whether the item is easily removable or not.

If an item is vital to the operation of the building, it may be deemed a fixture, even though perhaps easily removable.

Trade fixtures, or chattel fixtures, are items of a tenant's personal property that the tenant has temporarily affixed to a landlord's real property in order to conduct business.

Plants and crops that grow naturally, without requiring anyone's labor or machinery, are considered real property.

Plants and crops requiring human intervention and labor are called emblements.

Conversion of real property to personal property by detaching it from the real estate is called severance. Conversion of personal property to real property by attaching it to the real estate is called affixing or attachment.

All property in the United States is under the alodial system.

Regulated Aspects - Bundle of rights, legal descriptions, financing, insurance, inheritance, taxation, usage.

- Federal Regulation grants overall rights of ownership; controls broad usage standards, discrimination.
- State Regulation governs the real estate business; sets regional usage standards.
- Local Regulation levies real estate taxes; controls specific usage.
- Judicial Regulation applies case law and common law to disputes.