

Module Twenty Two – Easements

Question 36. *O* grants BatesAcre “to *A*, reserving an easement for *O* to cross BatesAcre to reach TuTwoAcre, and granting an easement to the owners of KrostAcre to use the southeast quadrant of BatesAcre for volleyball games on Sunday.” BatesAcre and TuTwoAcre abut each other on one side of the road. KrostAcre is on the other side of the road. Choose the most correct answer selection.

- a.* Under the common law rules, the easement benefiting TuTwoAcre is valid and the easement benefiting KrostAcre is valid.
- b.* Both easements are invalid because TuTwoAcre and KrostAcre cannot both be dominant estates to BatesAcre as a servient estate.
- c.* Under the modern approach some jurisdictions would treat both easements as invalid because the modern approach rejects the notion that grantor’s intent should control or be given substantial weight in determining the validity of the easement.
- d.* Under the common law rules the easement benefiting the dominant estate TuTwoAcre is validly granted, but the easement benefiting the dominant estate KrostAcre is invalidly granted.
- e.* All of selections *a* through *d* are accurate characterizations.

Question 37. Easements by prescription differ from adverse possession in which of the following ways? Choose the most correct answer selection.

- a.* When the elements are met for one to obtain an easement by prescription, that person does not obtain exclusive possession and title of the land, but rather obtains a right to use the land in some way.
- b.* Claims for easements by prescription, unlike claims for adverse possession, cannot be defeated by a showing that the “adverse using” was actually under the permission of the landowner of the servient estate.
- c.* From a policy perspective, the law should scrutinize easements by prescription to a greater degree compared to adverse possession because the claimant for an easement by prescription stands to gain a much greater interest in the true owner’s land than the claimant for adverse possession.
- d.* The “exclusivity” requirement in adverse possession is relaxed for the doctrine of easement by prescription such that for that “element” a claimant need not show that only the claimant made use of the right-of-way, but that the claimant’s right to use the land does not depend on a like right in others.
- e.* Two and only two of selections *a* through *d* are accurate characterizations.

Module Twenty Two – Easements – Answer Key

Question Number	Correct Answer
36	d
37	e (a & d)