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1. What claims and remedies, if any may Reed reasonably pursue against Linda?

Reed (R) has a Vested Remainder interest in the Havenwood house

A vested remainder is the interest in land one has after the life tenant passes. A vested remainder person can enforce damaging waste and sue for damages for reduction in value of the home though acts of a life tenant, Linda, (L) is the life tenant here, as Olivia bequeathed the house in Havenwood to Linda for the life of Linda, remainder to Reed. Besides suing for damages, Reed will also seek an injunction. R will also seek to enforce the restrictive equitable servitude that developer placed in the Deeds of all 15 Homes in Havenwood.

Here, Linda committed damaging waste to the house because she cut down valuable mature trees and privacy hedges on the lot to make room for parking. L could argue that she obtained a variance to use the home as a flower shop. A variance is a change in use of a property that one obtains permission for same a city /gov. entity when they wish to use the property in a different manner than the zoning ordinance in effect for that particular area. Here L obtained a building permit, for her plans of the flower shop but there is no mention of zoning other than the

Thus, L can make a money damages claim for Linda per waste.

Money Damages

A vested remainder holder can sue for money damages when the life tenant significantly reduces the value of the property.

Here, L significantly reduced the value of the home when she reduced the square footage from 5,000 Square feet to 2,000 square feet. a 60% reduction in size. Again, L will claim she was permitted to do same via a variance as the neighborhood seems to be changing as two coffee shops, two clothing stores and a dry cleaner are also operating out of the 15 homes.

Thus, R should prevail for money damages based on the above.

Injunction:

An injunction is an equitable remedy that seeks to stop an activity from happening in an emergency type situation. There must be an inadequate remedy at law, feasibility of enforcement, balancing of the hardships and no available defenses.

Here, L has already cut down trees and privacy hedges and with the building permit now seeks to significantly reduce the value of the house as described above. since land is unique, there is arguable inadequate remedy at law. In balance of the hardships, it appears that L has a good chance as a home will be significantly reduced in value. L won't be able to open her business, but she is a life tenant here and the remainder man has it worse as his home will be reduced in value. L will argue a variance defense, but she will not likely prevail as explained above.

Thus R can obtain an injunction.

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**2. Were the developer's residential deed restrictions valid?**

**Equitable Servitude.**

An equitable servitude in a restriction placed in land found in a writing, a deed that limits the use of land in a common scheme or development. It must contain a writing, must have intent to restrict, must touch and concern the land and must give notice.

Here, the developer conveyed each lot including Olivia's by a recorded deed stating that the conveyance was for "Residential purposes,

Thus there is a writing

Here there was intent to restrict the land to only residential purposes, thus intent to limit the use,

Here, the servitude touched and concerned the land as it made it more valuable.

Here there was at least consecutive notice to L as the deed was recorded.

L will argue the areas is changing as described above.

Thus, the Residential deed restrictions were valid.

Real Covenant. If seeking money damages. Same requirements as equitable servitude accept money damages rather than an equitable remedy.

Thus, the Residential deed restrictions were valid.

**Will Nancy succeed in her claim against Linda?**

Nancy will succeed in her equitable servitude arguments because of the intent if the Equitable servitude discussed above.

**Privacy Argument.**

Nancy can also make a lack of privacy argument for the privacy hedges seeing cut down.

If Nancy can prove the value of her home declined due to being right next t the business, she has R's Money and Injunction arguments to make as well and she should prevail.

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**END OF EXAM**