



CLASS 8

TORTS AND PERSONAL INJURY

LAND OCCUPIERS DUTY - DUTY TO TRESPASSERS

- **Ordinary** (unforeseeable) **trespasser** (person who comes onto the land without the express or implied permission of the owner):
 - **Landowner owes no duty to the trespasser**
- **Consistent** (foreseeable) **trespasser** (does not have to be a specific person contemplated by the land owner):
 - **Landowner owes a duty not to undertake actions or allow artificial conditions that cause a risk of death or serious bodily harm to the trespasser**

LAND OCCUPIERS DUTY - DUTY TO TRESPASSERS (CONT.)

- **Child trespasser and the “attractive nuisance” doctrine:**
 - **If the land owner knows or should know that children are likely to enter property for a particular purpose (e.g., a swimming pool), the land owner has a duty to protect/warn of the danger**

LAND OCCUPIERS DUTY - ENTRANTS WITH PERMISSION

- **Licensees** - entrant with permission who confers no economic benefit to the owner
 - Duty to warn or protect the licensee from latent dangers (natural or artificial)
 - This duty only extends to dangers that the land owner does actually know about!

LAND OCCUPIERS DUTY - ENTRANTS WITH PERMISSION (CONT.)

- **Invitees** - a person who enters by either the express or implied invitation of the land occupier for a purpose that serves the interest of the land occupier
 - There are two types: business invitees and public invitees
 - Land owner owes a duty to reasonably try to discover all latent dangers and to prevent those dangers or adequately warn the invitee of the danger
 - Posting a warning sign is usually good enough

LAND OCCUPIERS DUTY - ENTRANTS WITH PERMISSION (CONT.)

- **Lawful “public” entrant** - anyone entitled by law to enter the property without the permission of the land owner
 - Considered an invitee if that person is there for a business or economically beneficial reason (e.g., a government inspector)
 - Otherwise, considered a licensee



QUIZ TIME

OTHER ISSUES REGARDING LAND OWNERS

- For activities that are undertaken on the land and cause harm off of the land, the regular negligence rules apply
- Landlord's tort liability
 - Common areas
- Since landlord has a duty to control them, if someone gets hurt, landlord is liable
 - Latent defects

OTHER ISSUES REGARDING LAND OWNERS (CONT.)

- Defect that would not be obvious to the tenant but that the landlord knows about
 - Assumption of repairs
- Once the landlord agrees to do a repair, he or she must do so competently
 - Duties to make repairs from other sources (e.g., contract or statute)

OTHER ISSUES REGARDING LAND OWNERS (CONT.)

- Short term lease of a public dwelling (e.g., hotel)
- Note: Exculpatory clauses can limit liability unless they are unconscionable or unenforceable on public policy grounds!