



# Real Property

Class 8



# Landlord's Tort Liability

(exceptions to the rule of *caveat lessee*)

- Landlord is liable for injuries that occur in these situations even if lease does not say so:
- **Common Areas**
  - Since landlord has a duty to control them, if someone gets hurt, landlord is liable
- **Latent Defects**
  - 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



# Landlord's Tort Liability (cont.)

- **Duties to make repairs from other sources** (e.g., contract or statute)
- **Public Use Rule**
  - short term lease
  - public event
  - unreasonable to assume that the tenant can do a search for defects
- **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!



# Assignments and Subleases

- **Assignment:** Transfer of the entire interest from a tenant to a third party
- **Sublease:** Transfer of part of the remaining lease from the tenant to a third party
- In an assignment, the landlord's interest immediately follows the assignee's interest
- In a sublease, the tenant's (sublessor's) interest follows the sublessee's interest and the landlord's remainder interest follows the tenant's (sublessor's) interest.



# QUIZ TIME!



# Privity

- **Privity of contract:**

- A party is in privity of contract with another party when the two parties are signatories to the same contract

- **Privity of Estate:**

- A party is in privity of estate with another party when the second party's interest follows the first party's interest



# Privity (cont.)

	Assignment	Sublease
Privity of Contract	<ul style="list-style-type: none"><li>- Landlord and Tenant</li><li>- Tenant and Assignee</li></ul>	<ul style="list-style-type: none"><li>- Landlord and Tenant</li><li>- Tenant and Sublessee</li></ul>
Privity of Estate	<ul style="list-style-type: none"><li>- Landlord and Assignee</li></ul>	<ul style="list-style-type: none"><li>- Landlord and Tenant</li><li>- Tenant and Sublessee</li></ul>



# Why does Privity Matter?

- Items that can only be enforced between parties with privity of contract:
  - Collection of rent
  - Enforcement of contract terms
- Items that can only be enforced between parties with privity of estate:
  - Obligations inherent that come along with the landlord's status as landlord

