Chapter 3: Private Restrictions on Ownership

Encumbrances - Restrictions or limitations on the owner’s ability to use a property.

Lien – a financial security interest in a property.
- Mortgages – a pledge of real property as collateral for a debt or other obligation
  o Mortgagor-borrower
  o Mortgagee-lender
  o Foreclosure – legal process used mortgagee to use the pledged property to satisfy the debt or obligation in the event of default by the mortgagor.
- Mechanic’s liens - a financial security interest held by a party who provides labor or materials for real estate improvements that is enforceable by foreclosure.

Easements – a right to use a property in a specified manner.
- Types of Easements
  o Easement Appurtenant – Figure 3.1, page 46
    ▪ Dominant estate
    ▪ Servient estate
  o Easement in gross
- Creation of Easements by:
  o Express grant or reservation – Figure 3.2, page 47
  o Implication - easement by necessity – Figure 3.3, page 48
  o Prescription – Real Estate Today Feature, page 49.
- Termination of Easements by:
  o Agreement
  o Merger
  o Abandonment

License – a revocable personal privilege to use land for a particular purpose

Profit - profit a prende – a non-possessory interest that permits the holder to remove specified resources from the land

Adverse Possession – process by which title to land is transferred from its legal owner to someone who openly possesses the land for a statutory time period without the permission of the owner.
- See Real Estate Today Feature “Adverse Possession” on page 52.
- Requirements to obtain title by adverse possession
  o Actual and exclusive
  o Open and notorious
  o Hostile
  o Continuous
  o Under a claim of right
  o Statutory period
Encroachment – an unauthorized invasion or intrusion of a fixture, building or other improvement onto another owner’s property. 
Restrictive Covenants – also called deed restrictions, are promises made by a landowner or previous landowner that the land will or will not be used in certain ways.
- See Real Estate Today Feature “Meadow Brook Ranch Use Covenants” on page 54.
- See Real Estate Today Feature “Validity of Restrictive Covenants” on page 55.