1. Please provide an Analytical Overview of the Topic.

This is the last topic we will cover for the semester: the law of servitudes. There are two types of land use restrictions, the one is public or zoning and the other is private or servitudes. Servitudes are private agreements between real property owners, usually involving two or more parcels of land, for the purpose to increase the total value of all the parcels involved.

2. What distinguishes a contractual agreement as to use between two property owners and a property rights established between them?

3. What kind of use agreements might property owners choose to establish between themselves?

4. Why do property owners establish private use agreement?

5. What other land use restrictions have we discussed to date?

6. How does a use restriction in a defeasible estate different from that in a servitude?

7. What are the various types of servitudes?

8. What is a profit?

9. What is a license?

10. What is an easement?

11. What are covenants?

12. What kinds of property right covenants are there?

13. How are the majority of servitudes created?

14. How long might a servitude last?

15. What is rationale behind servitudes?

16. What is the distinction between easements in gross?

17. What is an easement appurtenant?
18. What is an affirmative easement?

19. What is a negative easement?

20. How are easements usually created?

21. How are easements created as exceptions to the Statute of Frauds?

22. In addition to a written grant and to exceptions to the Statute of Frauds, how are easements created?

23. When is an easement by reservation?

24. What is the topic of the Willard case?

25. Who is the plaintiff and what is the plaintiff seeking?

26. Who is the defendant and what do the defendant want?

27. What is the procedural posture of the Willard case?

28. Does the legal status of the parties matter? Would it matter in contract law?

29. What are the legal issues raised in the Willard case?

30. What in the legal title to the property is at issue?

31. What kind of servitude does this language appear to create?

32. Were the Williard aware of the easement when they purchased the property from Petersen?

33. What legal rules and authority are recognized in the Willard case?

34. What is the ruling or decision in the Willard case?

35. What is the Court’s reason or rationale for changing the rule of law in this case?

36. By what authority does the Court change the rule of law?

37. How should the rule apply retroactively to prior grants?

38. Was there any ambiguity in the granting language?

39. What is the court’s application to the particular facts in Willard?
40. Should the Supreme Court have remanded the case back to the trial court on the application of this new rule to the specific facts of the case?

41. Is what was created an easement appurtenant or an easement in gross? What does it matter?

42. What could have McGuigan’s attorney done differently to avoid this lawsuit?

43. What should have the Willards done in this matter rather than sue the Church?