Atlantic Cement Co.’s plant in Ravena New York as it is today. It now belongs to the Lafarge Co. The picture is taken from the grounds of a consolidated school. Much scrubbing equipment has been installed. A major revamping for environmental purposes was done between 2014 and 2017. The company is now proposing to replace the plant with one of much larger capacity using an entirely different system of cement production that is supposedly more environmentally friendly.

1. **Boomer**

   a. What did the court of appeals do in *Boomer* that the lower courts had not already done?

   b. The court does not answer Judge Jasen’s dissenting argument. What is the answer?

   c. If we are to “balance the equities” how do the following things cut:

      i. Defendant’s investment was $45 million; plaintiffs’ permanent damages $185,000

      ii. Plaintiffs were residential users, not industrial, commercial, or agricultural

      iii. Other residents of the area who were not parties to the suit were harmed by defendant’s activities

      iv. There was no measurable threat to public health shown

      v. Defendant had complied with all relevant zoning and environmental protection laws

      vi. Defendant could not have easily predicted that it would be held to be a nuisance, but it could have predicted that its operations would harm those like plaintiffs
d. Remedies that were available to the court

2. *Coase*
   a. How does it work?
      i. Joint causation
      ii. Liability rule has no economic effect in a world of zero transactions costs
      iii. What does that mean for a world that decidedly not one of zero transactions costs
   b. How doesn’t it work?
      i. One-on-one bargaining
      ii. Long-term effects of resource transfers
   c. Consequences for the law?

II. INTRODUCTION TO NON-POSSESSORY INTERESTS IN LAND
1. Introduction to non-possessory interests
corporeal vs. incorporeal hereditaments
   *iura in re suæ vs. iura in re alienæ*  
   (“rights in his own thing vs. rights in the thing of another”)
2. the questions on p. S384:
   a. Any legal effect?
   b. Changed conditions, changed use
   c. Abandonment
   d. Conveyance, succession
   e. Appurtenance vs. in gross
   f. Residual rights
   g. Eminent domain
3. Labels dictate result.
   a. Right in the land of another vs. estate (either leasehold or freehold)
   b. Burden vs. benefit
   c. Easement vs. covenant
      i. driveway easement as easement
      ii. as covenant
   d. Affirmative vs. negative
   e. Appurtenant vs. in gross affine affirmative
covenants

\[
\begin{align*}
\text{affirmative easements} & \quad \text{negative} \\
\text{negative covenants} & \quad \text{affirmative}
\end{align*}
\]
f. Dominant vs. servient

g. “Runs with the land”