

COUNCIL OF LEGAL EDUCATION NORMAN MANLEY LAW SCHOOL

LEGAL EDUCATION CERTIFICATE

SECOND YEAR SUPPLEMENTARY EXAMINATIONS, OCTOBER 2020

CONVEYANCING AND REGISTRATION OF TITLE

WEDNESDAY, OCTOBER 7, 2020

Instructions to Students

- (a) Duration: **24 hours**
- (b) Students shall enter their Examination ID Number **only, not their names**, on the cover page, the Academic Integrity Statement and on every separate page of the examination script.
- (c) The examination should be answered on letter-sized (8.5 x 11) paper only.
- (d) The examination should be submitted in Arial font 12 line spacing 1.5.
- (e) Students should clearly indicate the names of any cases with the citation and legislative provision/s (section number and Act) on which they rely to support their arguments. Consider using italics and/or bold text to make references prominent. (For example, *Rylands v Fletcher* [1868] UK HL1; **s.69 Real Property Act**). Sufficient detail is required to allow the examiners to understand the source of law that is being cited.
- (f) Footnotes, endnotes and bibliography are not required.
- (g) Students shall number the pages of their examination script as follows: Page 1 of 12, Page 2 of 12, etc.
- (h) In answering the question, a candidate may reply in accordance with the law of a Commonwealth Caribbean territory zoned for this school, **but must state at the beginning of the answer the name of the relevant territory.**
- (i) Each Student **must** ensure that their Anonymous ID in TWEN is changed to their four digit Examination ID Number, prior to submitting their examination script.
- (j) The examination script, with the cover page and Academic Integrity Statement saved in **ONE PDF DOCUMENT**, must be submitted in **ELECTRONIC** format via the **Year II OCTOBER 2020 EXAMINATIONS, CONVEYANCING AND REGISTRATION OF TITLE DROP BOX** on TWEN

by **Thursday, October 8, 2020**, NOT LATER THAN 9:00 a.m. (Jamaica) 8:00 a.m. (Belize) and 10:00 a.m. (Eastern Caribbean).

(k) To upload the examination script which has been saved as one pdf document which includes the cover page and Academic Integrity Statement, you must follow these steps:

- Go to ***www.lawschool.westlaw.com***.
- Log in using your username and password credentials and select the **TWEN** button.
- Click on the link for **“Assignments and Quizzes”** located on the left-hand side of the navigation screen.
- Select the relevant examination and the examination drop box as follows:
 - Year II students with Examination ID numbers between 2100-2162 must upload script, cover page and Academic Integrity Statement to folder titled **“Drop Box A Year II - 2100-2162”**.
 - Year II students with Examination ID numbers between 2163-2232 must upload script, cover page and Academic Integrity Statement to folder titled **“Drop Box B Year II - 2163-2232”**.
 - Year II students with Examination ID numbers between 2235-2311 must upload script, cover page and Academic Integrity Statement to folder titled **“Drop Box C Year II - 2235-2311”**.

You are a senior associate in the real estate department of the law firm Smith, Stone & Logan. Citizens Island Bank is a large client of the firm. The managing partner, Mr Stone, has passed to you five files dealing with real estate transactions in respect of which the Bank is involved and needs legal advice. He wants you to assume responsibility for the files and provide the required legal advice to Mrs Sadie Thompson, the general manager of the Bank.

The files relate to the following matters:

1. **HAWTHORNE AVENUE**

Mrs Thompson instructs you as follows:

1. The bank is the sole named executor under the Wills of their customers, William Clinton, and his wife, Maureen.
2. The bank has recently learnt that on August 1, 2020, William and Maureen were both seriously injured in a car accident while on holiday in Indiana in the United States of America, and after being hospitalized, both eventually

died from the injuries they sustained. William died on August 4, 2020 and Maureen on August 7, 2020.

3. The relatives of the couple have contacted the bank and provided the following information:
 - (a) William and Maureen were the registered proprietors as joint tenants of an apartment in an upscale condominium/strata complex situated on Hawthorne Avenue in the jurisdiction.
 - (b) Prior to their death, they entered into an agreement dated June 1, 2020, to sell the apartment which is registered at Volume/Block 442 Folio /Parcel 1112 of the Register Book of Titles/Land Register to David Bittens (the purchaser) for \$10,000,000.
 - (c) The Agreement provides for completion to take place within four months of the date of the agreement.

Mrs Thompson provides you with the sale agreement and further tells you that:

1. The bank has obtained a grant of probate in both estates but has taken no further steps to administer the estates.
2. She has recently received a letter from Mark Smith, the attorney-at-law for the purchaser, complaining about the delay in completing the sale and advising that the purchaser, expecting that this matter would have been completed by October 1, 2020, which was the due date for completion, had sold his house and was living in a hotel pending completion of this sale.
3. There is a mortgage endorsed on the title for the property in favour of Money Bank Limited, and \$2,000,000 remains outstanding under the loan. The available funds in the estate are not sufficient to settle the balance outstanding on the mortgage.
4. Money Bank Limited has advised that the Certificate of Title/Land Certificate for the apartment was destroyed in a fire at its head office at Bond Street. The vault on the third floor of the head office, where Certificates of Title/Land Certificates are kept, was open at the time of the fire and all the contents of the vault were completely destroyed.

Mrs Thompson also tells you that:

1. The bank has learnt that the purchaser intends, on completion of the sale of the apartment to him, to place it on the market in the hope of making a quick profit.
2. The bank is interested in purchasing the apartment to house the newly appointed manager of its Robin Bay Branch, Bradley Johnson.

3. She (Mrs Thompson) has intimated to Mark Smith, attorney-at-law for the purchaser, that the bank is interested in acquiring the property and preliminary discussions on the matter are underway.
4. The property is expected to be sold semi-furnished and the bank is hoping to be able to have Mr Johnson move in as soon as contracts have been exchanged and the deposit paid, as he (Mr Johnson) has recently received a notice to quit from his landlord.

2. **14 RIVERSIDE AVENUE – CAMDEN HEIGHTS**

Daniel Hinds is a customer of the bank. He resides at 14 Riverside Avenue, Camden Heights in the jurisdiction. The property consists of a three-bedroom dwelling house on a half-acre of land, title to which is registered in his sole name.

Three years ago, Daniel borrowed \$6,000,000 from the bank to carry out renovations to his premises. The loan was secured by a mortgage over the property.

He has made significant improvements to the entire property. He added two bedrooms and a pool, enlarged the existing kitchen, and with the assistance of a landscape architect, developed the grounds and gardens of the property. A valuation done six months ago, for insurance purposes, valued the property at \$30,000,000.

Daniel is four months in arrears on his mortgage payments, amounting to the global sum of \$850,000 inclusive of interest. He has been in touch with the bank and has indicated to the bank's loans manager that he is in the process of finalizing negotiations with a prospective lessee, Orion Limited, to take a five-year lease of a warehouse that he (Daniel) owns in the business district. He expects to receive a monthly rental of \$100,000 under the lease, and the rental received by him will be paid over to the bank until the arrears are settled in full.

The bank has written to Daniel advising him that his proposal is totally unacceptable and has requested Daniel to settle the outstanding arrears immediately.

Mrs Thompson tells you that:

1. Daniel has, over the years, treated his obligations under the mortgage with contempt. He has been consistently late with his monthly payments, has always been at least two months in arrears and is presently four months in arrears.
2. The bank wants to immediately put up the property for sale, and she intends to contact Joel Bignott, a customer of the bank, (whom she knows is looking to purchase an executive-type house) to inquire as to whether he is interested in a quick sale.

Mrs Thompson also provides you with the following further details in relation to the Riverside Avenue property:

1. Camden Heights is an exclusive residential neighbourhood. It comprises 30 lots, each approximately half-acre in size.
2. The titles to all of the lots in the neighbourhood have the following restrictions endorsed thereon:
 - (i) *The said land shall not be subdivided.*
 - (ii) *No building other than a private dwelling house with appropriate outbuildings shall be erected on the said land and no trade or business whatsoever shall be carried on upon the said land or any part thereof.*
3. The neighbourhood has remained mainly residential. However, the areas around Camden Heights have, over the years, attracted several commercial enterprises, including a shopping mall and a private school.
4. She had recent discussions with Daniel, who is the Chairman of the Camden Heights Citizens Association and he mentioned that :
 - (i) Ziggy Azalia, a well-known music promoter in the entertainment industry who resides in the neighbourhood, intends to move his business operations from where he presently operates on Melody Avenue in the business district, to his house at 4 Riverside Avenue.
 - (ii) He (Ziggy) plans to erect a building at the back of his existing house, out of which he will operate his business. He intends to apply to the court to have the restrictions on the title for his property discharged/modified to accommodate his plans.
 - (iii) The Association has serious concerns in relation to what Ziggy is proposing to do. In their view it will change the feel and character of the neighbourhood. They intend to take whatever legal steps may be open to them, including proceeding to court, to object to his proposed plans.
5. The bank is also concerned as it is very likely that Ziggy's plans, if implemented, will adversely affect the value of the property that it holds as security for the loan.

A. HAWTHORNE AVENUE APARTMENT

Prepare a letter to Mrs Thompson outlining your advice on:

- (i) the procedural steps that must be taken by the bank to complete the sale of the apartment to David. Your advice must include reference to any documents that

will be required (including correspondence to Money Bank Limited) and the contents of same;

- (ii) the procedural steps required to be taken by the bank to replace the Duplicate Certificate of Title/Land Certificate that has been destroyed; and
- (iii)
 - (a) the inquiries and searches it (the bank) should make as a preliminary step to entering into the contract to purchase the apartment;
 - (b) the general contract terms it should expect to see in the agreement for sale;
 - (c) any special terms and conditions you would recommend be included; and
 - (d) the content(s) of such special terms/conditions and the reason for including them.

B. 14 RIVERSIDE AVENUE – CAMDEN HEIGHTS

Prepare a letter to Mrs Thompson outlining your advice on:

- (i)
 - (a) the procedural steps to be taken by the bank in exercising its power of sale; and
 - (b) the matters to be taken into consideration by the bank when doing so.
- (ii)
 - (a) whether the concerns of the Camden Heights Citizens Association are valid; and
 - (b) the likelihood of the court upholding their objections.

Note:

Your answer should not exceed **3500 words**.

END OF PAPER