

COUNCIL OF LEGAL EDUCATION  
NORMAN MANLEY LAW SCHOOL

LEGAL EDUCATION CERTIFICATE  
SECOND YEAR SUPPLEMENTARY EXAMINATIONS, 2014

CONVEYANCING AND REGISTRATION OF TITLE

(AUGUST 8, 2014)

Instructions to Students

- (a) Time: **3½ hours**
- (b) Answer **FIVE** questions.
- (c) In answering any question, a candidate may reply by reference to the law of any Commonwealth Caribbean territory, **but must state at the beginning of the answer the name of the relevant territory.**
- (d) It is unnecessary to transcribe the questions you attempt.
- (e) Answers should be written in black or dark blue ink.

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PLEASE REMAIN SEATED UNTIL YOUR SCRIPT HAS BEEN COLLECTED.

### **QUESTION 1**

Florence is registered as the sole proprietor of the fee simple interest in property registered at Block/Volume 1388 Parcel/Folio 166 of the Register Book/Land Register.

Florence had inherited this property, which was at that time a vacant lot, from her deceased father. She built a three-bedroom house on the lot and shortly after the house had been completed, she married Johnathon and he moved in with her.

The marriage has now broken down and Johnathon has moved out of the house and has filed for a divorce.

Florence has just received a notice from the Registrar of Titles/Lands stating that Johnathon has lodged a caveat/caution against all dealings on the title, alleging that he is entitled to a half share in the property. Florence is shocked at the notice and wants to know the effect of Johnathon's action and what can be done to assist her as she is determined that he will not get any part of her father's property.

Prepare a letter to Florence advising her on the following:

- (i) the practical implications of the caveat/caution lodged against all dealings; and
  - (ii) the procedural steps she can take to deal with the caveat/caution.
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### **QUESTION 2**

You are instructed by Sharon Fuller who is seeking to purchase a strata/condominium unit in a new development. Your instructions are that Sharon will require a mortgage representing 80% of the purchase price to complete the purchase.

Sharon says that she has been told by the real estate agent for the developer that some of the strata/condominium units may be sold with appliances.

Sharon would also like to move out of her rented apartment and into her new home as soon as an agreement is signed.

As attorney-at-law for Sharon, advise her generally on:

- (i) her proposed purchase of the strata/condominium unit, including any specific terms you would recommend that she insist that the vendor include in the agreement for sale; and
  - (ii) any preliminary enquiries, searches and requisitions you would deem appropriate in Sharon's case?
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### **QUESTION 3**

Harrison Peters mortgaged property located at 6 Fleet Street to National Bank Ltd. The property comprises a commercial building in which Harrison runs his pest control business.

Harrison has experienced a down-turn in his business over the past two (2) years and the mortgage has not been paid for the last three months.

A few days ago, he received a telephone call from a friend, telling him that she saw an advertisement in the local paper that the property was being sold by National Bank Ltd. for \$3.5M or nearest offer. Harrison was shocked.

He comes to see you and advises that he had no notification from National Bank Ltd. of the intended sale. He also says that the last valuation, which was done about six months ago for insurance purposes, stated that the property was worth about \$11M.

Harrison is seeking your advice on the following:

- (i) the procedural steps that National Bank Ltd., as mortgagee, is required to take to properly exercise its power of sale, and the matters to be taken into account in doing so; and
  - (ii) the options available to Harrison in the circumstances.
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#### **QUESTION 4**

Nicole and Mark own their matrimonial home at 6 Lockhart Street in the parish of St. Michael as joint tenants. The property is comprised in Volume/Block 1482 Folio/Parcel 636 of the Register Book/Land Register.

On May 1, 2014 they entered into an agreement to sell the property to Richard Simms and they have received the deposit.

Richard has been given four (4) months to complete under the Sale Agreement. Nicole, however, fell ill and died on May 14, 2014.

Mark comes to see you with the written agreement, seeking your advice on what is required to complete the sale to Richard.

Advise Mark on what steps must be taken to effect the transfer to Richard, outlining the contents of any document(s) that will be required.

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## **QUESTION 5**

Stanley has entered into an agreement to sell to Howard his fee simple interest in a commercial building located in the business district of the city. The property is registered at Block/Volume 1122 Folio 252 of the Register Book/Land Register in the names of Stanley and his brother John as joint tenants. John died prior to Stanley entering into this agreement.

The Agreement has been signed by Stanley and Howard, and completion is to be within 90 days of the signing of the Agreement. The Agreement is dated June 1, 2014 and the deposit has been paid over to Stanley.

The Agreement contains a special condition that makes it subject to Stanley noting John's death prior to completion. The Application to note John's death was submitted to the Registrar of Titles/Land on July 27, 2014 and, from enquiries made by Stanley at the Registry, full processing of same should be completed by today.

Howard, through his attorney, Karl Brown, of the firm Brown & Associates, has written to ask for a one month extension of time within which to pay over the balance of the purchase price in exchange for title. Stanley is not willing to agree to any such extension of time because, based on what he has observed of Howard's lifestyle, Howard could hardly be deemed to be in need of funds.

Stanley is requesting that you immediately reply to Karl Brown indicating that he will not agree to any extension of the completion date and intends to cancel the agreement and forfeit the deposit should Howard fail to pay over the balance due on the completion date.

- (i) Advise Stanley of the circumstances in which you would be able to comply with his instructions; and
- (ii) assuming those circumstances exist, prepare an appropriate response to be sent to Karl Brown having regard to your advice in (i).

## **QUESTION 6**

Karen and Marlene are the registered proprietors, as joint tenants, of a parcel of land registered at Volume/Block 1416 Folio 270 of the Register Book/Land Register.

The property is mortgaged to First National Building Society for Three Million Dollars.

Marlene, who lives in Miami, Florida, U.S.A., and Karen, who lives in Jamaica, have entered into an agreement to sell the property to Keith Griffiths for Six Million Dollars cash.

The Building Society has indicated that the Duplicate Certificate of Title/Land Certificate was destroyed in a fire at its offices.

Advise Karen and Marlene on the procedural steps they would be required to take to complete the sale, if possible, without the Duplicate Certificate of Title/Land Certificate. Your advice must make reference to any document(s) required and the information required to complete them.

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## **QUESTION 7**

Vernon and Sasha met each other for the first time at the wedding, of a mutual friend and they were immediately attracted to one another. They had a whirlwind romance and got married three (3) months later, in a beautiful ceremony in an old wooden church, situated in the hills of Greenfields in the parish/district of Saint David. After the wedding they lived happily together at 3 Harmony Drive in the parish/district of Saint David. The house in which they lived was owned solely by Vernon.

Two years later, Vernon developed a heart condition and died while undergoing surgery to correct a blocked artery.

His Will states, inter alia:

*“I devise to my dear wife Sasha, all my interest in the property at 3 Harmony Drive, Saint David, which interest she shall hold for the rest of her life and on her death to my god-daughter, Simone.”*

Sasha is devastated at Vernon’s death and wants to migrate and start a new life abroad. She is concerned however that having regard to the wording of the Will, she may not be able to derive any financial benefit from the property.

Sasha comes to see you for advice on the following:

- (i) the option(s) open to her for giving up her interest in the property and getting cash in exchange; and
- (ii) the matters she should take into account and any procedural steps she should follow given your advice at (i) above.

Advise Sasha.

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### **QUESTION 8**

Janelle, Dawn and their brother, Oscar, are registered as tenants in common of property located at 3 Nevis Avenue in the parish/district of Saint James. Oscar died seven months ago.

Janelle and Dawn are the executors named in Oscar’s Will which they have already probated.

Oscar has devised his interest in the property to his two adult children, Allan and Paul, to hold as joint tenants.

Advise Janelle and Dawn on the procedural steps they would be required to take to pass the interest in the property to Paul and Allan in accordance with the Will. Include in your advice any document(s) required, outlining the contents thereof.

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**END OF PAPER**