

COUNCIL OF LEGAL EDUCATION  
NORMAN MANLEY LAW SCHOOL

LEGAL EDUCATION CERTIFICATE  
SECOND YEAR EXAMINATIONS, 2010

CONVEYANCING AND REGISTRATION OF TITLE

FRIDAY, JUNE 4, 2010  
(ORIGINALLY TIME-TABLED FOR TUESDAY, MAY 25, 2010)

Instructions to Students

- (a) Time: 3 ½ 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 ink.
- (f) **Where the current date is relevant in answering any question, that date is to be treated as being the date for which this examination paper was originally time-tabled as shown above.**

---

PLEASE REMAIN SEATED UNTIL YOUR SCRIPT HAS BEEN COLLECTED.

### **QUESTION 1**

Marianna Dunn is registered as a joint proprietor of the fee simple interest of property located at 10 Dunhill Heights. The other joint proprietor named on title is her father, Mathew Dunn, now deceased.

Marianna is trying to sort out her father's estate and is seeking the assistance of your firm in doing so.

Marianna tells you that in going through her father's papers she did not see the Duplicate Certificate of Title/Land Certificate for the Dunhill Heights property. She says that all of her father's important documents were kept in a safety deposit box at the Island Bank Ltd. However, having searched the safety deposit box, she did not find the document.

Prepare a letter to Marianna advising her on the procedural steps she should take to deal with the interest she holds as the surviving joint proprietor of the property located at 10 Dunhill Heights.

Your advice must make reference to any documents you deem necessary and the information required for completing them.

---

### **QUESTION 2**

Percival Thom has approached your firm to assist him in the purchase of Unit 15, in the commercial shopping complex known as Plaza Carnival. The complex consists of a two-

storey building with 25 units, in which various commercial activities are conducted. Unit 15 is located on the second floor.

Percival is one of two partners who are the principals behind the business “Top Class Hair”, a chain of barbershops. Percival says that the partners are hoping to grow the chain of shops by setting up a barbershop in Unit 15. They believe that the location will attract a loyal clientele of businessmen.

Percival’s instructions are that a mortgage would be needed to assist with the purchase. The partners would also like to take possession of the property as soon as legally possible, so that necessary renovations can be done ahead of the grand opening they plan to have, hopefully around July of this year.

As an associate in the real estate division of the firm you have been assigned to deal with the matter.

In preparation for your first meeting with Percival, prepare a checklist of the matters you consider important to advise him on, as a purchaser of Unit 15, including the following-

- (i) the preliminary searches, post contract inquiries and requisitions that should be undertaken;
  - (ii) the general contract terms he should expect to see in the agreement for sale; and
  - (iii) any special conditions you would recommend for inclusion in the agreement for sale.
-

### **QUESTION 3**

Micah Row is the registered proprietor of property known as 'Cloude Nyne'. Micah's position as a departmental supervisor was made redundant last year. He subsequently set up his own business, offering sales and marketing services to small businesses.

Micah had obtained a loan of \$10 million from Era Bank Ltd., secured by a mortgage over Cloude Nyne, to assist with the start up of the business. However, the business has been very slow in taking off and Micah has missed some of his repayments to the bank.

Micah tells you that from the moment he realized he was having financial difficulties he met with the Bank's Loans Manager, and on several subsequent occasions. The Loans Manager had assured him that he understood Micah's plight as his case was not unusual.

Micah says he was shocked to learn that the property was advertised in the Sunday paper, for sale by public auction. This advertisement appeared just a few days after he had received a letter from the bank indicating that Micah is five months in arrears of his monthly payments and that the property will be offered for sale.

He says that he called up the Bank's Loans Manager on Monday morning and was even more shocked when the manager told him that the bank had, in fact, instructed its attorneys-at-law that same day, to prepare the agreement for sale because a purchaser had been found before the auction could be held.

Micah says he is bewildered and upset because he thinks that the bank is "taking advantage of him and other poor people who are trying to make a living". He is also upset because the loans manager was not willing to re-negotiate the terms of payment

or to lower the ridiculous interest rate to assist him. He tells you that he knows other persons who have been able to “get lower interest rates because of who they know in the bank”.

Micah is therefore seeking your advice as to what can be done to save his house or for him to get some form of compensation from the bank.

Advise Micah on the following -

- (i) the options that may be open to him in the circumstances he has outlined; and
  - (ii) the procedural steps to be followed to pursue these options.
- 

#### **QUESTION 4**

Adon has been living and conducting business as a music promoter in the entertainment industry for the past twelve years, from premises located at 224 Mellow Lane. The property is registered in the name of Adon’s grandmother, Miss Lucille Bennett.

Although Miss Lucille relocated some years ago, Adon remained at the house, with her permission for him to live and operate his business from the house. Adon’s clientele has grown over the years and he wants to separate the location of his business from his living space, by constructing another building at the back of the existing house.

However, Adon is concerned as to how his plan would work because of the following restrictions on title:

***“1. The lot and all buildings and other erections thereon shall not nor shall any part of the lot or erections at any time be used otherwise than as one single private dwelling house and the appurtenances thereof and any such dwelling house shall not cost less than ONE HUNDRED THOUSAND DOLLARS.***

***2. No building erected on the lot shall be used for the purpose of a shop, school, chapel or church and no trade or business whatsoever shall be carried on upon the lot or any part thereof.***

***3. There shall not at any time be erected, placed or suffered to be or remain on the lot any temporary building or structure except such as are used for the purpose of building a private dwelling in accordance with sub-paragraph (1) hereof.***

***All of the above-mentioned restrictions shall run with the said land and shall bind the Registered Proprietor, his successors and transferees and shall enure for the benefit of and be enforceable by the registered proprietor for the time being of any of the said lands.”***

Adon says that Mellow Lane has remained largely residential, although the Church of Holy Trinity has conducted services at 200 Mellow Lane for over 20 years. It is the church he attended as a child and which most of the Mellow Lane residents attend as well. However, the areas around Mellow Lane have, over the years, attracted several commercial enterprises, including a shopping mall.

There is also an active Mellow Lane Citizens Association, whose membership is comprised of mostly registered proprietors, who are constant in their efforts to preserve the quiet, family oriented neighbourhood they bought into many years ago. Adon says that he has benefitted from his grandmother’s goodwill and the fact that he is seen as a part of the Mellow Lane family, having grown up in the neighbourhood. Residents have

always complimented him and have expressed pride in his accomplishments in the entertainment industry.

However, the Brown family, who have been renting the property adjoining 224 Mellow Lane for about 5 years now, have constantly complained that the loud noises and riotous behaviour of some of Adon's friends and clients are unacceptable. On one occasion Mr Brown threatened to call the police.

Adon now seeks your advice as to the procedural steps he would be required to take if he wishes to build another building on the land at 224 Mellow Lane to accommodate his business. Your advice must make reference to the documents you deem necessary and the information required to complete them.

Advise Adon.

---

### **QUESTION 5**

Melissa Shrewsbury is the life tenant of property located at 110 Love Avenue where she now resides. The property is comprised of a six bedroom, well-appointed bungalow on over 1 acre of land. The property was a gift to Melissa, given under the Will of her late husband Johnathan.

The instructions under the Will are that on Melissa's death or re-marriage, the fee simple interest in the property is to pass to Malcolm, Johnathan's son from another relationship. Malcolm, who is now sixteen years of age, lives with his aunt, Sally Pious,

who was appointed his guardian, after Malcolm's mother migrated to the United States of America when he was two years old.

Melissa tells you that she is now ready to start a new phase in her life and would like to sell the property. She is hoping she can use the proceeds to buy another property that she has already identified. She further tells you that an 'old flame', Sam Boyd, had expressed an interest in purchasing the property, which was an offer she was anxious to pursue in anticipation of a quick sale, because Sam is a very wealthy man.

Melissa is now seeking your assistance in pursuing the sale of the property to Sam.

Advise Melissa on –

- (i) the procedural steps she should take which would allow her to enter into an agreement for sale of the property; and
- (ii) the use of the proceeds of sale for the purchase of another property.

Your advice must make reference to any documents you may deem necessary and the information you will require to complete them.

---

## **QUESTION 6**

Aubrey Wise and his wife Dorothy are returning residents who are seeking your advice as to how they should proceed against Phil Underwood, Dorothy's brother. The Wises' instructions are that they lived and worked in the United Kingdom for over 30 years.



During that time, and in contemplation of returning home on retirement, they sent money from time to time to Phil to cover the costs of the construction of a house on land, which they had purchased.

The Wises have shown you what they say are the invoices of expenses incurred in the purchase of the land and the construction of the house. These invoices were sent to them over a period of years by Phil. They have also shown you receipts of certified banker's cheques sent to Phil to pay the invoices sent. Now that they are ready to retire and return home, the Wises have discovered that the property is registered in Phil's name and that Phil has advertised the property for sale in the local newspaper.

Advise the Wises on the following -

- (i) the procedural steps that they can take against Phil to protect their interest, as a matter of urgency;
- (ii) should the Wises act on your advice in (i), outline to them the options that would be open to Phil in response to their action.

Your advice in (i) and (ii) should make reference to any documents you deem necessary and the information required to complete them.

---

### **QUESTION 7**

Mercedes is registered on title as a proprietor of the fee simple interest as a tenant in common in equal shares, with her deceased twin sister Marcelle. Mercedes is the executrix of Marcelle's estate and has just obtained a grant of probate.

Mercedes is the sole beneficiary of the property under Marcelle's will and thinks it would be convenient to put her two children, Alison and Sean on the title to the property, since she is now administering Marcelle's estate.

Advise Mercedes on the procedural steps she would be required to take to register Alison and Sean on the title with her as joint proprietors. Your advice must make reference to the documents you may deem necessary and the information required for their completion.

---

### **QUESTION 8**

Yanique is seeking your advice as to how she can resolve the following matter with Robbie. Yanique's instructions are that in February 2010, she orally agreed to sell Robbie the fee simple interest in one-half acre of her three-acre farm, located at Farmland in the parish/district. Yanique says that Robbie confirmed the arrangement in an e-mail to her in late February 2010.

Yanique tells you that she subsequently received a cheque from Robbie for \$750,000 with a note, which stated ***"I have enclosed, as agreed, a part payment on the land deal. Of course you will get the balance in exchange for title at the appropriate time"***.

Yanique responded to Robbie a few days later by e-mail stating ***"Thanks Robbie for your note and enclosure. We will be in touch."***

Yanique further tells you that in March 2010, she had the area of land to be sold surveyed and allowed Robbie to take possession of the land on March 15, 2010.

Yanique has since applied for a subdivision of the land, so that a separate title could be issued to Robbie.

Yanique received a pre-checked survey plan from the planning authorities in April, 2010 and is now demanding that Robbie pay over the balance due. Yanique is particularly disturbed after having received a telephone call from Robbie, asking for an extension of time to December 2010 to complete the transaction, because he has just received some bad news that will disrupt all of his plans for the farm. Robbie has indicated to Yanique that things are so bad that he may even have to negotiate a loan to assist with the payment of the balance.

Having received information through the grapevine that the new title will be issued in a few days, Yanique is requesting that you immediately write to Robbie, asking that he pay over the balance immediately. She also instructs that he be advised that if he fails to pay, she will sell the land to someone else and hold on to the money she has already received from him to cover his use of the property from the date he entered into possession to the present.

Yanique tells you that in any event she is only trying to be patient with Robbie. In her opinion there is no agreement for sale because she never signed any document agreeing to sell him the land.

Advise Yanique on the following -

- (i) the nature of the transaction between Robbie and herself;
- (ii) whether you can accede to her instructions to write to Robbie in the terms she has requested; and

- (iii) the procedural steps that must be taken to give effect to her request for the balance of the purchase money from Robbie.

Your advice must make reference to any documents you deem necessary and the information required to complete them.

---