

COUNCIL OF LEGAL EDUCATION  
NORMAN MANLEY LAW SCHOOL

LEGAL EDUCATION CERTIFICATE  
SECOND YEAR EXAMINATIONS, 2014

CONVEYANCING AND REGISTRATION OF TITLE

(FRIDAY, MAY 16, 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**

By Agreement for Sale dated April 10, 2014, Winston Small, an Architect, agreed to sell to Jerry Farmer all his fee simple interest in property registered at Volume/Block 1420 Folio/Parcel 502 of the Register Book/Land Register.

The agreed purchase price is \$20,000,000. Contracts were executed and exchanged and Jerry made a payment of \$2,500,000. Completion is set for May 30, 2014. On May 14, 2014 Winston received a letter from Jerry advising that, he (Jerry) would not be in a position to complete on the agreed date and would require an extension of three months on the completion date.

Winston tells you that he has learnt through friends of Jerry that Jerry wishes to postpone completion as he is low on funds at the moment, having just completed the purchase of a luxury yacht imported from Italy.

Winston is quite upset and has asked you to write to Jerry indicating that he (Winston) does not intend to grant the extension of time requested and intends to cancel the sale and withhold all of the money so far paid over to him.

Prepare a letter to Winston advising him on the following:

- (i) whether you can accept his instructions as given, giving reasons; and
- (ii) the steps you suggest that he take to deal with his concerns over Jerry and his ability to purchase the property. Your advice must identify any document(s) you consider necessary in the circumstances and its/their contents.

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## **QUESTION 2**

Garth and his wife, Laila, are the joint proprietors of land which comprises their matrimonial home registered at Volume/Block 1040 Folio/Parcel 639 of the Register Book of Titles/Land Register.

Garth died recently and Laila consults you for advice in relation to having the register reflect that she is the sole proprietor. Laila mentions in her meeting with you that she cannot find the Duplicate Certificate of Title/Land Certificate.

- (i) Outline the contents of the application required to show that Laila is now the sole proprietor; and
  - (ii) Advise Laila on the procedural steps to be taken to address the matter of the lost title, outlining the contents of any relevant document(s).
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## **QUESTION 3**

Prudence is the sole Executrix named in her brother Phillip's Will and she has recently obtained a Grant of Probate. Under the terms of the Will, all of the real property in Phillip's estate has been devised to Prudence.

Phillip is registered as the sole proprietor of the fee simple interest in property known as 2A Bronx Avenue, in the Parish/District of St. David.

Advise Prudence on the procedural steps she will be required to take to give effect to Phillip's Will, outlining the contents of any relevant document(s).

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#### **QUESTION 4**

Claire and Gerald Smith reside at 14 Uptown Avenue, the title to which is registered in their names as joint tenants of the fee simple interest. The property comprises a four-bedroom dwelling house on an acre of land with the following restrictions endorsed on the Title:

- (a) The said land shall not be subdivided;
- (b) 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.

Claire and Gerald want to build a block of apartments on the land and have approached National Bank Ltd. to obtain mortgage financing to assist them with the construction.

They have approached you with regard to the project and have mentioned that the Bank is concerned that the construction of the apartments will be in breach of the restrictions on the Title. Gerald further advises that there are a number of apartment complexes on Uptown Avenue. In addition Gerald has indicated that a few of the residents on Uptown Avenue have objected to the number of such developments in the area.

They are anxious to proceed with the project but they need the Bank's financing to do so.

- (i) Advise Gerald and Claire on the procedural steps they must take to modify/discharge the restrictions. Your advice must include any document(s) required, summarizing their contents.
  
  - (ii) Advise Gerald and Claire on the likelihood of success of their application for modification/discharge of the restrictions.
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**QUESTION 5**

**ANSWER EITHER (a) OR (b)**

- (a) Norma Rose lives in Bayshore in the Parish/District of Saint David. Most of the residents in the area live on unregistered land which they have occupied for many years, without any clear title to the land.

Norma is the Chairperson of the Bayshore Citizens Association and she has organized a meeting of the citizens in the community to discuss with them the benefits of obtaining registered title to the land they occupy.

You have been asked by Norma to make a presentation at the meeting on the procedural steps that the residents would be required to follow to obtain registered title.

Prepare the presentation outlining to the residents:

- (i) the distinction between registered and unregistered title to land; and
  - (ii) the procedural steps to be taken to register unregistered land including reference to the documentation required and their contents.
- (b) Mark Abbott is the sole executor and trustee of the estate of his sister Sharon.

Sharon's Will provides inter alia as follows:

"I devise to my son Rudolph my house located at 14 Carlos Avenue in the Parish/District of Saint Davis for his use and enjoyment and on his death to my God Daughter Pauline."

Mark tells you that Rudolph is anxious to have Sharon's estate administered as he wants to sell the house to help pay for a flashy sports vehicle he is buying. Rudolph has in fact already taken a few of his friends to view the house, hoping that one of them would offer to purchase it.

Prepare a letter to Mark advising him on:

- (i) the procedural steps Rudolph must follow to sell his interest in the house and how the proceeds of sale should be dealt with; and
  - (ii) Mark's role in the sale as executor and trustee under the Will.
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## **QUESTION 6**

The Managing Director of Penny Bank Building Society wants to ensure that the Mortgage Arrears Department of the Society carries out its operations in an effective manner and within the confines of the law. He has asked you to prepare guidelines with accompanying notes to be

used by officers within the Department when they are considering exercising their power of sales as mortgages.

Prepare the guidelines and notes.

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### **QUESTION 7**

Lori and Norris have been in a common law relationship for over ten (10) years. The title to the four-bedroom dwelling house which Lori shared with Norris for the duration of their relationship is registered in Norris' name at Volume/Block 637 Folio/Parcel 39 of the Register Book/Land Register, as sole proprietor of the fee simple interest.

Lori says that when they were purchasing the house, in order to obtain the mortgage without too much trouble, she agreed with Norris that his name alone would be on the Title. Norris, an Engineer employed to Mountain Construction Ltd., had a permanent job with a steady income. Lori on the other hand was self-employed as an events coordinator.

Lori says that she was able, out of income earned by her from such events, to contribute to the mortgage payments by reimbursing Norris half of the monthly payments. In addition she also contributed significantly to renovating the house which had been bought in a dilapidated condition.

Their relationship has ended and Lori has moved out of the house. She has now learnt that Norris is taking steps to sell the house. She is very upset as she fears that her interest in the property is at risk as her name is not on the title.

Lori now seeks your advice on the following:

- (i) the procedural steps you would recommend that she take as a matter of urgency to secure her interest. Your advice must include any document(s) that may be required, summarizing their contents; and
  
  - (ii) the steps Norris could take if Lori follows your recommendation at (i) above.
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### **QUESTION 8**

The following notes have been passed to you by the partner with whom you work.

*“Please prepare for an interview with the client/purchaser. He is requesting our advice on the following purchase:*

*Vendor: Gary Holder – land developer – in joint venture with Prestige Homes Development Company Limited*

*Purchaser: Timothy and Enid Reid – No. 3 Murray Street in the parish/district of St. Patrick*

*Property: Fully furnished new three-bedroom unit in new complex - client believes that it is a strata/condominium complex of 15 units*

*Purchase Price: \$24 Million Dollars – portion to be paid on signing agreement*  
*Purchaser needs mortgage to complete the sale. Purchaser is now in rented premises and wishes to move in as soon as possible.”*

Carefully considering your role as the Purchaser’s attorney-at-law, with responsibility for perusing a draft Agreement for Sale, prepare a checklist of the matters you consider to be important in advising the client/purchaser on the proposed sale.

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**END OF PAPER**