

**COUNCIL OF LEGAL EDUCATION
NORMAN MANLEY LAW SCHOOL**

**LEGAL EDUCATION CERTIFICATE
SECOND YEAR EXAMINATIONS, MAY 2022**

CONVEYANCING AND REGISTRATION OF TITLE

THURSDAY, MAY 12, 2022

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 a bibliography are not to be used.

- (g) Where word limits have been given, the actual word counts must be included at the end of your answer. Students who have exceeded the word limits will be penalised.
- (h) Students shall number the pages of their examination script as follows: Page 1 of 12, Page 2 of 12, etc.
- (i) In answering any Part, 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.**
- (j) 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.
- (k) 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 MAY 2022 EXAMINATIONS, CONVEYANCING AND REGISTRATION OF TITLE DROP BOX** on **TWEN** by **Friday, May 13, 2022** **NOT LATER THAN** 9:00 a.m. (Jamaica), 8:00 a.m. (Belize) and 10:00 a.m. (Eastern Caribbean).
- (l) 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 - 2181** must upload script, cover page and Academic Integrity Statement to folder titled “**Drop Box A Year II - 2100 - 2181**”.
- Year II students with Examination ID numbers between **2182 - 2263** must upload script, cover page and Academic Integrity Statement to folder titled “**Drop Box B Year II - 2182 - 2263**”.
- Year II students with Examination ID numbers between **2264 – 2345** must upload script, cover page and Academic Integrity Statement to folder titled “**Drop Box C Year II - 2264 – 2345**”.

You are a senior associate with the law firm of Des Vignes, Ferdinand & Moore. Mr Donald Fraser is a client of the firm, and he comes to see you on a number of matters.

A. PROPERTY AT 4 BLUE RANGE AVENUE

The first matter involves the captioned property which consists of a four-bedroom townhouse comprised in Certificate of Title /Land Certificate registered at Volume/Block 453 Folio/Parcel 1800 of the Register Book/Land Register in the name of Donald’s father, Lester Fraser, and his (Lester’s) two sisters, Henrietta and Agnes, as joint tenants. Both sisters, who had lived overseas for many years, are now deceased. Agnes died in August 2015 and Henrietta died three months later in November 2015. Donald instructs you that his father, Lester, passed away in April 2020, at the height of the COVID-19 pandemic. Donald is the sole beneficiary under his father’s Will. The executor named in the Will is Martin Goodhall, a friend of his father. Martin has already obtained a Grant of Probate in the estate but has done nothing else.

Donald tells you that he was recently approached by a prospective purchaser who is interested in acquiring the property. After considering the offer for some time,

he has now decided to proceed with the sale, and he provides you with the following details:

- The purchaser is Jane Murray, and she will require mortgage financing to complete the sale.
- Completion is to take place within three months of the execution of the contract for sale .
- The purchase price is \$4,000,000 and an initial payment in the sum of \$800,000 is required on execution of the contract. The balance is to be paid on completion.
- The sale will include the items of household furniture and appliances presently situated in the house.
- He does not intend to entertain any delays in completion by the Purchaser as he knows that it will not be difficult to find other persons interested in acquiring the property.

Donald also advises you that a caveat/caution against all dealings with the property has been lodged by a Garfield Grange, who claims that in 2019 he had lent money to Donald's father which was never repaid, and as such has an interest in the property.

B. SEA SCAPE VILLA - PARADISE MEWS

The captioned property comprises one of the assets in Donald's father's estate. At the date of his death, his father was the sole registered proprietor of this property. Under the terms of the Will, the property has been devised to Donald in the following manner:

“I devise my property known as Sea Scape Villa situated in Paradise Mews to my son Donald for life and thereafter to my nephew Garth.”

A perusal of the Will reveals that no trustees have been appointed.

Given the terms of the Will, Donald is not clear as to the nature of the interest he holds in the property and what, if any options there are, to benefit financially from the property.

C. SILVER SPRINGS LAND

Donald further instructs you that he operates a restaurant and catering business out of rented premises situated at Woodford Avenue in the jurisdiction. In 2017, as the business was doing well, he decided to expand his operations and obtained a loan of \$8,000,000 from Island Bank Limited to assist with the expansion. The loan was secured by a property owned by Donald and located in Silver Springs, an exclusive residential neighbourhood. The property comprised two acres of land, and Donald had obtained planning permission to erect a complex comprising 12 two-bedroom townhouses with attendant amenities. He has not yet commenced any construction on the property.

He tells you that over the past year and a half business has declined, and he has not made the monthly mortgage instalments due to the Bank for the last three months. He further instructs you as follows:

1. His property was included in a list of properties published in a local newspaper about two weeks ago, advertising a public auction sale by the Bank, acting under its power of sale.
2. The advertisement reads as follows:

“Vacant lot for sale pursuant to Powers of Sale contained in a Mortgage. Property registered at Volume/Block 1200 Folio/Parcel 585. Public auction to be held at the offices of C.D. Pitter Auctioneers, on Thursday, May 15, 2022.”
3. The Bank never told him that the property was going to be sold.
4. On seeing the advertisement, he contacted the Bank and met with the manager. In his discussions with the manager, he explained the

difficult financial situation in which he now found himself and proposed that the monthly mortgage payment be reduced for a few months.

5. The Bank has recently responded rejecting his proposal on the ground that it has already agreed in principle, to sell the property by private treaty to Malcolm Budd for \$6,000,000. Budd is a businessman in the jurisdiction, and a customer of the Bank.

Donald is very upset as he has recently learnt that the manager at the Bank and Mr. Budd are shareholders in Sites Limited, a property development company in the jurisdiction. He tells you that he is quite sure, based on what other similar properties in Silver Springs have been recently sold for, that the market value of his property is substantially more than \$6,000,000.

Instructions:

Prepare a letter to Donald outlining your advice in relation to the following properties:

A. PROPERTY AT 4 BLUE RANGE AVENUE

- (i) the procedural steps to be taken to put Donald in a position to sell the property. Your advice must also indicate the document(s) required, and the contents of such document(s).
- (ii) (a) the general terms and conditions that would be inserted in the agreement for sale to Jane Murray;

(b) the special terms and conditions you would recommend be included in the agreement for sale, outlining their contents and the reasons for including them; and

(c) the further instructions, if any, you will need to assist in your preparation of the agreement for sale.

(iii) the options open to him to deal with the caveat/caution.

B. SEA SCAPE VILLA - PARADISE MEWS

- (i) the options that are available to him for utilizing the villa to generate funds for himself;
- (ii) the matters he must consider, and any procedural steps he would be required to follow, given your advice in (i) above; and
- (iii) the consequences that flow from the Will not having appointed trustees.

C. SILVER SPRINGS LAND

the specific matters to be taken into account in order to determine whether the Bank has acted improperly in attempting to exercise its power of sale and, if so, any recourse he may have against the Bank in the circumstances.

Note:

Your letter should not exceed **4,500 WORDS**.

END OF PAPER