

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

**LEGAL EDUCATION CERTIFICATE
SECOND YEAR EXAMINATIONS, MAY 2021**

CONVEYANCING AND REGISTRATION OF TITLE

THURSDAY, MAY 13, 2021

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 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 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.**
- (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 2021 EXAMINATIONS, CONVEYANCING AND REGISTRATION OF TITLE DROP BOX on TWEN** by **Friday, May 14, 2021 NOT LATER THAN** 1:00 p.m. (Jamaica) 12:00 p.m. (Belize) and 2:00 p.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 2100-2177 must upload script, cover page and Academic Integrity Statement to folder titled **“Drop Box A Year II - 2100-2177”**.
 - Year II students with Examination ID numbers between 2179-2252 must upload script, cover page and Academic Integrity Statement to folder titled **“Drop Box B Year II - 2179-2252”**.
 - Year II students with Examination ID numbers between 2253-2326 must upload script, cover page and Academic Integrity Statement to folder titled **“Drop Box C Year II - 2253-2326”**.

You are a senior associate with the law firm Marley, Fisher and Stone. Design Homes Limited, a large property development company in the jurisdiction, is a newly retained client of the firm. The managing director has sent you a memorandum advising that the Chief Executive Officer of the company, Timothy Hicks, has requested advice in relation to certain land transactions in which the company is involved, some of which have become contentious. The managing director wants you to meet with Mr Hicks.

Mr Hicks comes to see you and instructs you in relation to the following matters:

A. PROPERTY AT 16 ETON DRIVE

On March 12, 2021, he orally agreed on behalf of the company, Design Homes Limited

("Design Homes"), to purchase from Sunita Hosein for the sum of \$5,000,000, the fee simple interest in her four-bedroom house situated at 16 Eton Drive, Chelsea Gardens in the jurisdiction. The property is registered at Volume/Parcel 1400 Folio/Parcel 269 of the Register Book of Titles/Land Register. Later that same day he paid Sunita by way of a Manager's cheque (drawn on "Design Homes" bank account) the agreed deposit of \$500,000. She gave him a receipt (made out to Design Homes) acknowledging the payment of the deposit and she suggested that the company take possession of the property. The house on the lot was vacant and she was concerned about the risk of vandalism. She promised to have her attorney-at-law prepare a contract for sale and send it to the company for execution.

A week later the company had not yet received a contract for sale, so it confirmed the terms of the arrangement in a letter to Sunita. In the letter the company also undertook to pay the balance of the purchase price on the agreed day for completion, which was May 6, 2021, in exchange for title. Thereafter, the company took possession of the property, bulldozed the house and enclosed the lot with a chain link fence.

In May, prior to the agreed completion date, Mr Hicks tried emailing and calling Sunita to settle on a time and place at which they could meet to exchange the balance of the purchase price for title. Sunita has not responded to any of his emails, neither has she returned any of his calls.

Sergio Perez, a friend of Mr Hicks, recently mentioned to him that he has heard that Sunita has received an offer from a local conglomerate to purchase the lot for \$6,000,000. His understanding is that she is in the process of selling the property to that entity.

Mr Hicks is very upset over the turn of events and tells you that the company intends to institute legal proceedings against Sunita. He is concerned as to whether there is anything the company can do to protect its interest in the property until the court matter is sorted out.

Mr Hicks also tells you that the company wants to construct an exclusive apartment complex comprising 40 three-bedroom apartments on the lot it has bought from Sunita. He provides you with the following further details:

1. Sunita's property on Eton Drive forms part of an old subdivision known as Chelsea Gardens. The original subdivision comprised 50 lots, with each lot comprising approximately half an acre of land.
2. The lots in the subdivision are concentrated along four roadways (Holland Crescent, Midland Close, Windsor Crescent and Eton Drive) all leading off of Chelsea Avenue, which is the main road in the area.
3. The following restrictions appear on the Certificates of Title/Land Certificates for all the lots in the subdivision :

- 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 ”*

There are a number of lots in the subdivision, mainly along Holland Crescent, Windsor Crescent and Midland Close, where the original single family residences on the lots have been converted into townhouse and apartment complexes. This general tendency towards multi-dwelling complexes is however, noticeably less prevalent along Eton Drive.

4. The company intends to obtain loan financing to fund the construction of the project. As the bank is likely to be concerned that the construction will be in breach of the restrictions, Design Homes does not wish to commence the development until the matter of the restrictions has been dealt with.

Mr Hicks tells you that on completion of the project, Design Homes intends to sell the units with certain basic items of household appliances and equipment. He thinks that most of the purchasers will likely need mortgage financing to complete the sale and some of them will want to take possession of the unit as soon as the contracts have been exchanged. The company requires that completion take place within four months of the execution of the sale agreement. Based on the company's projections the purchase price for each unit is likely to be in the sum of \$3,000,000. Design Homes will require from each purchaser an initial payment of \$450,000 on the execution of the sale agreement. The balance is to be paid on completion. The company expects that in spite of the pandemic there will be a reasonable demand for the units. It, therefore, does not intend to entertain any delays by the purchasers, as it will not be difficult to find other buyers to whom the lots can be sold.

He also advises you that his friend, Sergio, has informed him that :

- (a) Sunita is not in possession of the Certificate of Title/Land Certificate for the Eton Drive property.
- (b) She handed it over to her bank, Gold Bank Limited, in 2016 when she had obtained a loan from the bank and had used the property as security.
- (c) A small balance is still outstanding on the loan.
- (d) Gold Bank Limited has advised Sunita that they recently relocated their office from Fleet Street to Park Avenue, and in the process of so doing a number of important documents, including the Certificate of Title/Land Certificate for the Eton Drive property, were misplaced. To date, none of these documents has been found.

B. MOUNT IRVINE LANDS

Design Homes is the registered proprietor of the fee simple interest in the captioned property. The property consists of a five-acre parcel of land known as "MOUNT IRVINE" comprised in Certificate of Title/Land Certificate registered at Volume/Block 1119 Folio/Parcel 399 of the Register Book of Titles/Land Register.

By Agreement for Sale dated January 1, 2021, the company agreed to sell to Jeffrey Bayne (a local businessman in the jurisdiction) the fee simple interest in the property for the price of \$20,000,000. Contracts were executed and exchanged. Jeffery made an initial payment of \$3,250,000 when he signed the contract.

Under the terms of the agreement, completion was to take place on or before April 1, 2021. On February 23, 2021, the company received a letter from Jeffery advising that he would not be in a position to complete on the agreed date, and would require an extension until May 1, 2021, within which to complete the sale. He advised that his business was experiencing some cash flow problems which he expected would be sorted out in another three to four weeks. Design Homes reluctantly agreed to the requested extension.

The extended date for completion has passed and to date Jeffery has not contacted Design Homes in relation to the matter. Mr Hicks is upset as the company has already been financially inconvenienced by the original extension of time to which it agreed. He does not intend to grant Jeffery any more extensions of time within which to complete the purchase. He wants you to write to Jeffery immediately, advising that Design Homes is no longer interested in completing the sale, that it will keep the entire payment of \$3,250,000 and will find another purchaser.

Required:

A. PROPERTY AT 16 ETON DRIVE

Prepare a letter to Mr. Hicks outlining your advice on:

- (i) the procedural steps the company can take to protect its interest in the property before instituting proceedings in court against Sunita. Your advice must make reference to any document(s) required and the contents thereof;
- (ii)
 - (a) the steps the Company would be required to take to vary the restrictions on the title so as to facilitate the development plans for the property, including the documents (s) required and the contents of such document(s); and
 - (b) the likelihood of success.
- (iii)
 - (a) the general terms and conditions you would seek to insert in an agreement for sale of a unit in the project.

- (b) the special terms/conditions you would recommend be included in the agreement for sale based on the instructions given ;
 - (c) the content of such special terms /conditions and the reasons for including them; and
 - (d) any further instructions you will need to assist in your preparation of the agreement of sale; and
- (iv) the procedural steps required to be taken by Sunita to replace the Duplicate Certificate of Title/Land Certificate that has been lost, including the document(s) required and the content of such document(s).

B. MOUNT IRVINE LANDS

Prepare a letter to Mr Hicks outlining your advice on:

- (a) whether you can comply with his instructions in relation to writing to Jeffrey, giving reasons; and
- (b) the steps you recommend he takes to deal with his concern over Jeffrey and his (Jeffrey) ability to purchase the property. Your advice must identify any document(s) you consider necessary in the circumstances and its/their contents.

Note:

Your answer to Parts (A) and (B) should not exceed **4,500 WORDS**.

END OF PAPER