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NORMAN MANLEY LAW SCHOOL
Council of Legal Education

LEGAL EDUCATION CERTIFICATE
FIRST YEAR EXAMINATIONS, 1992

LANDLORD AND TENANT
Thursday, May 28, 1992

Instructions to Students:

- a) Time: 3 1/2 hours.
- b) Answer FIVE questions only.
- c) In answering any question a student 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.

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Ld + T, 1992

Question 1

Lupie is the owner of "Greenacre" a property with a main house and two cottages thereon.

(a) In 1988, Charles was employed by Lupie as his chauffeur and estate manager for "Greenacre". Charles was paid a weekly salary and as part of his remuneration for his services he was permitted to use a flat attached to the main house at "Greenacre" as his residence. Lupie's nephew has recently come to live at "Greenacre" at the main house and Lupie no longer wishes to continue the arrangement with Charles as his nephew is being very helpful with driving him around and managing the estate.

(b) From 1989 Lupie's son, Mark, has lived in one of the cottages at "Greenacre". Lupie had given Mark permission to occupy this cottage as Mark had been evicted from his own house and he was unable to find alternative accommodation.

After Mark had been living in the cottage for a month, Lupie reminded him that the arrangements were only temporary. Mark, however, did not remove because he now found the cottage quite to his liking and by early 1990 Mark invited his girlfriend Julia to live with him in the cottage.

Lupie thereafter, made repeated requests to Mark to leave the cottage but Mark refused to deliver it up.

Julia now has a child for Mark. However, Mark has removed from the cottage and is living elsewhere. Lupie has not yet asked Julia to leave but wishes to evict her and the child.

(c) Lupie entered into an oral agreement with Olivia Lovelorn

W, who needed money to cover his living expenses abroad, in March 1992 reluctantly agreed to sell the house to P who had lived abroad for many years and was going home following his retirement and the sale was completed in April 1992. P now wishes to recover possession of the premises.

Advise A and B as to their status vis-a-vis the property.

Question 2

L, a lecturer at the College of Learning in Kingston, opts to find his own accommodation and accept a housing allowance of 30% of his salary each month rather than to occupy accommodation provided on the College campus which would cost him 10% of his salary each month. Since September 1990, having found his own accommodation, he has let the "helper's room" to a student, Paul, who pays him \$1,230 per month which includes the cost of electricity and water. Paul also undertakes to babysit when L goes out in the evenings and on each occasion that he does so, he is given a \$50 rebate on the rent for the month.

To comply with the usual formalities required by the College, the property is let by the owner, Z, to the College on an annual basis from September 30 of each year, and the College then sublets to L on a monthly basis.

In March 1992, L terminated his contract with the College and left the country. The College has threatened to evict Paul claiming that he is a mere trespasser, and that the premises are required for occupation by another lecturer. Paul is very anxious to remain in occupation since he has to take his final examinations in December 1992, and has neither the time nor the financial resources to find other accommodation in the middle of the academic year.

Advise Paul.

Question 3

Leslie granted a lease of his house for seven years to Dr. Tubb for the purpose of residential occupation, with all the usual covenants. At the time of the demise, Leslie was in the process of erecting a dwelling-house on the adjoining property on the eastern side.

Leslie also owns the house on the adjoining property on the western side and has let it to Joey, a well-known soca band leader who resides there but who also practises with his band on most weekdays between 1:00 p.m. and 10:00 p.m.

For the past three months, Dr. Tubb who examines patients in the afternoons at the demised premises, has been unable to hear any sounds from his stethoscope due to the noise of construction from the adjoining property and has been losing patients because of the

dust. In addition, he is unable to sleep at nights until the band has ceased practising.

Advise Dr. Tubb.

Question 4.

M has been the tenant of premises in High Street since 1984. She uses the premises for the manufacture of school uniforms. The rent of \$5,000 is payable on the last day of each month, in advance, and M is also responsible for payment of water and electricity bills. M had entered into a written agreement for the tenancy with the landlord, Downtown Development Company. On September 22, 1991, the Downtown Development Company served M with notice to quit for non-payment of rent which M agrees has been in arrear for six months. She claims, however, that the premises have been in a bad state of repair for years, and that, during recent heavy rains, water seeped in through the defective roof causing damage to the inside walls and flooring and to bales of cloth which she stored on the premises for her business. She has claimed compensation from the Downtown Development Company which has denied liability.

The company states that it is an express term that the tenant would maintain the premises in a tenant-like manner, fair wear and tear excepted. M is of the view that the landlord is responsible for all repairs although not expressly stated in the agreement. The company had in the past entered the premises to put security

locks on all the doors and was therefore aware of the disrepair.

M, who is now being sued for repossession of the premises and arrears of rent, seeks your advice.

Advise M.

Question 5

(a) Progress entered into an oral agreement with Warfers Ltd. for a yearly lease of a warehouse in downtown Kingston from February 1, 1990, at a rent of \$500 per month. He used it for storage of locally manufactured leather goods prior to exporting them to various Caribbean countries. Unfortunately, the factory which produced the leather goods had been closed since mid-March 1992, pending settlement of a labour dispute over wages. Progress does not feel it would be worthwhile for him to continue to rent the warehouse after the end of May 1992, when the present supply of goods would be exhausted.

Advise him how the lease may be terminated.

(b) Noddles Ltd. occupies an office block in Crossroads under a five-year lease at a quarterly rent of \$8,000. The lease contains a covenant against assigning and underletting and gives the landlord, Cash, a right of re-entry for any breach of covenant by the tenant. Noddles Ltd. is having financial problems and is unable to maintain the whole premises. It grants a sublease on a

monthly basis of the ground floor to its subsidiary, Foods Ltd., to use as a fast-foods restaurant. Cash wishes to sell the block.

Advise him how the lease may be terminated.

Question 6

By a lease under seal, made between Sandy and Henry, Sandy leased premises known as No. 1 Short Road to Henry for a term of five years commencing from the 1st May 1987, at a monthly rental of \$5,000 subject to the covenants, conditions and agreements contained in the lease.

The lease contained the following covenants -

- (i) On payment of the sum of \$50,000 on signing hereof the lessee shall be granted the option to purchase the demised premises for the sum of \$800,000 such option to be exercised before the expiration of the term hereby created.
- (ii) In the event the lessee being prepared to lease the demised premises for another term at the expiry of the term hereby created the lessee shall have the right of first refusal to lease the demised premises for a term of five years commencing from the expiry of the term hereby created such first refusal to be exercised by the lessee

on or before the expiry of the present term.

On executing the lease, Henry paid to Sandy the sum of \$50,000 in consideration for the option. At the expiration of the term, Henry demanded a renewal of the lease for a further term of five years at the same rental and one month later tendered a cheque for the sum \$805,000 saying, "This is for the rent for May and the purchase price."

No. 1 Short Road now has a market value of \$1.75 million and Sandy has received an offer from Richie to lease the premises for ten years for \$10,000 per month.

Advise Sandy.

Question 7

On May 1, 1985, Thomas leased his two-storey building to Larry, a motor mechanic, for 15 years at a yearly rent of \$36,000 payable by equal monthly instalments. From the date of the lease, Larry has been living on the first floor using the ground floor as a motor mechanic garage.

The last eight months rent being in arrears, last Friday Thomas' bailiff entered the premises and found Mrs. Larry cleaning. He seized the vacuum cleaner from her whereupon Mrs. Larry took it away from him and fled the premises with it. The bailiff then seized a double-decker bed and a refrigerator, both the property of Larry, and an exercise bicycle Mrs. Larry had borrowed from her

friend, Jane. On the ground floor the bailiff seized a motor car that Byron had driven to the garage in order to enquire whether his motor cycle was ready.

Advise Larry, Mrs. Larry and Byron.

Question 8

John Thomas, the owner of certain controlled premises known as Lot 10 Sufferers Row, has just returned from abroad having won a million pounds on the football Pools. He has decided not to work for the rest of his life and to live frugally.

While abroad, he had left his premises at Lot 10 Sufferers Row, which consisted of three rooms, to Tom Stokes, a labourer, who occupied it with his wife and ten children, at a rental of \$200 monthly although the maximum permitted rent was \$300 monthly.

John Thomas has been trying unsuccessfully to persuade Stokes to leave the premises so that he can occupy it with his wife and two young children. He has offered to find Stokes alternative accommodation in two areas of the city but Stokes says that one is in a high crime area and in the other there is no running water in the house and he is not prepared to use the standpipe provided for persons living in the area. Thomas further offered Stokes \$1,000 if he would leave but Stokes has refused it. Thomas now informs Stokes that if he wants to stay he will have to pay a monthly rental of \$300, whereupon Stokes replies that he has no intention

of paying any rent exceeding \$200 montly.

Thomas has now served Stokes with a notice to determine the tenancy.

What are the chances of Thomas being able to recover possession of his premises through the Court?
