JUNE 2012 EXAMINATION

DATE: 8 JUNE 2012

TIME: 09H00 – 11H00 TOTAL: 100 MARKS

DURATION: 2 HOURS PASS MARK: 40%

(BUS-PAC / YG-91)

PROPERTY LAW AND CONVEYANCING

THIS EXAMINATION PAPER CONSISTS OF 3 SECTIONS:

SECTION A: CONSISTS OF:
(i) 10 MULTIPLE-CHOICE QUESTIONS (20 MARKS)
(ii) 5 TRUE OR FALSE QUESTIONS (10 MARKS)
(iii) 5 SENTENCES FOR COMPLETION QUESTIONS (5 MARKS)

ANSWER ALL THE QUESTIONS

SECTION B: CONSISTS OF 8 QUESTIONS
ANSWER ALL THE QUESTIONS (45 MARKS)

SECTION C: CONSISTS OF 3 QUESTIONS
ANSWER ALL THE QUESTIONS (20 MARKS)

INSTRUCTIONS:

1. Read the following instructions carefully before answering the paper, as failure to act upon them will result in a loss of marks.
2. Write your answers in your answer book, which is provided in the exam.
3. Ensure that your name and student number are clearly indicated on your answer book.
4. Write your answers in either blue or black ink in your answer book.
5. Read each question very carefully before you answer it and number your answers exactly as the questions are numbered.
6. Begin with the question for which you think you will get the best marks.
7. Note the mark allocations for each question – give enough facts to earn the marks allocated. Don't waste time by giving more information than required.
8. You are welcome to use diagrams to illustrate your answers.
9. Please write neatly – we cannot mark illegible handwriting.
10. Any student caught cheating will have his or her examination paper and notes confiscated. The College will take disciplinary measures to protect the integrity of these examinations.
11. If there is something wrong with or missing from your exam paper or your answer book, please inform your invigilator immediately. If you do not inform your invigilator about a problem, the College will not be able to rectify it afterwards, and your marks cannot be adjusted to allow for the problem.
12. This paper may be removed from the examination hall after the examination has taken place.

NOTE: All references to sections and regulations are, unless indicated, references to the Deed Registries Act 47 of 1937, as amended, and regulations thereto.
(i) MULTIPLE-CHOICE QUESTIONS

Choose the correct option for each of the following. Write only the question number and your chosen answer. For instance, if you think that the correct answer for number 1 is (a), then write it as 1. (a).

1. Every conveyancer is a(n):
   (a) notary.
   (b) attorney.
   (c) advocate.
   (d) All of the above.

2. To be valid, an agreement of sale of land must be signed by:
   (a) the purchaser.
   (b) two witnesses.
   (c) both parties.
   (d) Both (b) and (c) above.

3. A deed of transfer must be executed before the:
   (a) transferor.
   (b) transferee.
   (c) registrar of deeds.
   (d) Both (a) and (b) above.

4. In terms of Section 29A of the Alienation of Land Act (the “cooling-off provision”), written notice of termination of a deed of alienation must be given within:
   (a) 5 days of registration of transfer.
   (b) 5 days of signing the deed of alienation.
   (c) 10 days of signing the deed of alienation.
   (d) 10 days of lodgement at the deeds office.

5. When applying for a transfer duty receipt on payment of the required sum, a _____ must be completed.
   (a) transfer tax assessment
   (b) transfer duty declaration
   (c) consent declaration
   (d) transfer duty deed
6. Regulation 68 makes provision for:
   (a) an application.
   (b) a transfer.
   (c) a rejection.
   (d) a guarantee.

7. The sum total of all real rights in land is:
   (a) a servitude.
   (b) mortgagee’s rights under a bond.
   (c) a usufruct.
   (d) absolute ownership.

8. In the case of a transfer from an intestate estate, an affidavit by the _____ must be lodged as proof that the deceased died intestate.
   (a) conveyancer
   (b) Master
   (c) executor
   (d) next-of-kin

9. The directors of a company will complete a(n) _____ to authorise a director to sign on their behalf.
   (a) deposition
   (b) affidavit
   (c) memorandum
   (d) resolution

10. An exclusive use area in a sectional title scheme is part of:
    (a) the common property.
    (b) a section.
    (c) a servitude.
    (d) None of the above. \[10 \times 2 = 20\]

(ii) TRUE OR FALSE QUESTIONS
Indicate whether the following statements are true or false. Should you decide that a statement is FALSE, you must explain why.

1. In a sale of property, the seller will not be held liable for patent defects.

2. The “cooling-off provision” in terms of Section 29A of the Alienation of Land Act only applies to agricultural land.

3. After a deed has been registered it will be numbered and microfilmed at the deeds office.

4. The agent in terms of the power of attorney to pass transfer may be a practicing attorney, notary or conveyancer.

5. Ownership of a sectional title unit is transferred by means of a deed of transfer. \[5 \times 2 = 10\]
(iii) **SENTENCES FOR COMPLETION QUESTIONS**

Complete the following sentences by filling in the missing word or words. The sentences for completion are given to you in Column A. Choose the correct missing word or words from Column B.

Write down only the number of the sentence for completion and the correct letter for the missing word or words, for example 1. (a).

<table>
<thead>
<tr>
<th>Column A</th>
<th>Column B</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. The responsibility for ensuring the financial arrangements in a transaction to be registered at the deeds office rests on the _____.</td>
<td>(a) registrar of deeds</td>
</tr>
<tr>
<td>2. An antenuptial contract must be executed before a _____.</td>
<td>(b) body corporate</td>
</tr>
<tr>
<td>3. A diagram or general plan must be prepared by a _____.</td>
<td>(c) land surveyor</td>
</tr>
<tr>
<td>4. A ____ examines all deeds submitted for registration.</td>
<td>(d) conveyancer</td>
</tr>
<tr>
<td>5. Before transfer of a sectional title unit, the conveyancer must obtain a certificate from the ____ that all moneys due to it by the registered owner have been paid.</td>
<td>(e) notary</td>
</tr>
</tbody>
</table>
SECTION B

(45 MARKS)

ANSWER ALL THE QUESTIONS

QUESTION 1

Define the following:

(a) property that is at the 'sole risk' of the purchaser (1)
(b) a pro forma invoice (1)
(c) certificate of consolidated title (2) [4]

QUESTION 2

(a) An agreement of sale must identify three items of information. What are they? (3)
(b) In an agreement of sale, can a conveyancer accurately predict the exact date on which transfer is to take place? (1) [4]

QUESTION 3

Answer the following questions regarding the preparation certificate:

(a) State where it is found and on which documents. (2)
(b) In general, who must sign it? (1)
(c) Briefly state what the person who signs it accepts responsibility for. (2) [5]

QUESTION 4

(a) If you are attending to the transfer of a property over which an existing bond is registered, you will contact the bondholder. Outline three important pieces of information that you will ask the bondholder for. (3)
(b) List six documents to be lodged when lodging a conventional transfer for registration. (6) [9]
QUESTION 5
(a) What is a mortgage bond? (2)
(b) What does the ranking clause in a mortgage bond set out? (2)
(c) When lodging a conventional mortgage bond for registration, what documents should be lodged? (4) [8]

QUESTION 6
List four items of information that must be stated in the affidavit that is lodged with a section 4(1)(b) application. [4]

QUESTION 7
Explain fully what a section 42(2) certificate is. In your answer, also state when such a certificate is needed and what its purpose is. [5]

QUESTION 8
(a) Name the certificate that the Registrar issues to the developer in respect of each unit, when a sectional title register is opened for a scheme. (1)
(b) How is an exclusive use area transferred to a purchaser? (1)
(c) Can a part of the common property of a sectional title scheme be alienated? Explain the procedure to be followed. (2)
(d) Give two differences between a sectional mortgage bond and a conventional mortgage bond. (2) [6] [45]
SECTION C (20 MARKS)

ANSWER ALL THE QUESTIONS

QUESTION 1

Simon LeBrock sold his property in Johannesburg. You are attending to the transfer. He tells you that he is married to Gizelle LeBrock. At the time he was married, he was domiciled in France. Their marriage ceremony took place in South Africa.

(a) The laws of which country govern their marriage? (2)

(b) Who must sign the power of attorney to pass transfer? (1) [3]

QUESTION 2

Give the linking and the deeds office codes of a batch of deeds consisting of the following transactions:

A transfer from Naidoo to Patel,
Naidoo has two bonds that are being cancelled, and
Patel is registering a bond in favour of XYZ Bank. [5]

QUESTION 3

James Peters sold his house in Observatory to Cindy Cole. James has an existing bond registered over the property in favour of ABC Bank.
Cindy Cole has been granted a bond by XYZ Bank to finance the purchase.
James Peters is married in community of property to Samantha Peters.
Cindy is married out of community of property to William Cole.

(a) Will James need his wife’s consent to sell the house? Give a reason for your answer. (2)

(b) List four documents that you would prepare or signature by James when you are attending to the transfer of the property. (4)

(c) Identify who will pay the transfer duty in the above scenario. (1)

(d) In the above scenario, in the mortgage bond between Cindy and XYZ Bank identify the:
   i. mortgagor. (1)
   ii. mortgagee. (1)
(e) Who must sign the power of attorney to mortgage? (1)

(f) What document must be signed in order to cancel the Peters' bond? (1)

(g) Who must sign the document referred to in (f) above? (1) [12]

Section A: 35 marks
Section B: 45 marks
Section C: 20 marks
TOTAL: 100 MARKS