NOVEMBER 2012 EXAMINATION

DATE: 9 NOVEMBER 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 MATCHING-STATEMENT QUESTIONS (5 MARKS)

ANSWER ALL THE QUESTIONS

SECTION B: CONSISTS OF 11 SHORT QUESTIONS
ANSWER ALL THE QUESTIONS (45 MARKS)

SECTION C: CONSISTS OF 2 PRACTICAL APPLICATION QUESTIONS
ANSWER BOTH 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: FOR ADDITIONAL INSTRUCTIONS PLEASE TURN TO PAGE 2.

Examiner: SAILT
ADDITIONAL INSTRUCTIONS

All references to sections and regulations are, unless indicated otherwise, references to the Deed Registries Act 47 of 1937, as amended, and regulations thereto.
PROPERTY LAW AND CONVEYANCING

SECTION A
(35 MARKS)

ANSWER ALL THE QUESTIONS

(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. A conveyancer must be admitted as such by the:
   (a) High Court of South Africa.
   (b) Deeds Office of South Africa.
   (c) Land Board of South Africa.
   (d) Registrar of Deeds.

2. When there is a voetsoots clause in the agreement of sale it means that:
   (a) the seller can be held liable for patent defects.
   (b) the seller can be held liable for all latent defects.
   (c) the seller cannot be held liable for latent defects that the he or she did not know about.
   (d) Both (a) and (b) above.

3. The preparation certificate appears:
   (a) at the end of a deed of transfer.
   (b) on the first page of a deed of transfer.
   (c) on every page of a deed of transfer.
   (d) on the front of the lodgement cover.

4. The invoice provided to the purchaser, which sets out the estimated costs involved in the transfer, is called:
   (a) a pro forma invoice.
   (b) a pro rata invoice.
   (c) a tax invoice.
   (d) a guarantee.

5. The ‘linking’ of deeds refers to:
   (a) lodging supporting documents into one lodgement cover with the deed.
   (b) naming the holding title deed in the new deed.
   (c) the numbering of deeds lodged into a batch.
   (d) making an endorsement onto the first page of a deed.
6. The consent to cancellation of a mortgage bond must be signed by the:
   (a) mortgagee.
   (b) mortgagor.
   (c) Registrar of Deeds.
   (d) Both (b) and (c) above.

7. An error in a registered deed can be rectified by means of:
   (a) an application in terms of section 4 (1) (b).
   (b) a deed of transfer.
   (c) a conveyancer's certificate.
   (d) consent by the Master of the High Court.

8. A power of attorney to pass transfer must be signed by a _____ on behalf of a close corporation.
   (a) director
   (b) notary
   (c) member
   (d) company secretary

9. The common property of a sectional title scheme is owned by:
   (a) the state.
   (b) the public.
   (c) the initial developer of the scheme.
   (d) all owners of sections in the scheme.

10. The registry dealing with the registration of sectional titles is found in the:
    (a) Master's office.
    (b) High Court.
    (c) company's office.
    (d) deeds office.

(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. An agreement of sale will be valid if it identifies the parties and the property and states that the purchase price will be determined at a later stage.

2. The insolvency affidavit obtained from parties to a transfer must be lodged in the deeds registry as proof of solvency.

3. The power of attorney to pass transfer authorises a conveyancer to act on behalf of the transferor.

4. If an owner has lost his or her title deed, Regulation 68 provides that the owner can use a photocopy that has been certified by the conveyancer to serve as a replacement.

5. Sectional mortgage bonds must be signed by the mortgagor in the presence of the conveyancer.
(iii) MATCHING-STATEMENT QUESTIONS

Match the statements in Column B to the statements in Column A. Write down the answers only, for example 1. (a).

<table>
<thead>
<tr>
<th>Column A</th>
<th>Column B</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. preparation of diagram of land</td>
<td>(a) land surveyor</td>
</tr>
<tr>
<td>2. signature of preparation certificate</td>
<td>(b) body corporate</td>
</tr>
<tr>
<td>3. examination of deeds</td>
<td>(c) Master of the High Court</td>
</tr>
<tr>
<td>4. consent in deceased estate</td>
<td>(d) deeds office</td>
</tr>
<tr>
<td>5. management of sectional title scheme</td>
<td>(e) conveyancer</td>
</tr>
</tbody>
</table>
SECTION B: SHORT QUESTIONS  
(45 MARKS)

ANSWER ALL THE QUESTIONS

QUESTION 1
Define each of the following terms:
(a) *domicilium citandi et executandi*  
(b) title deed  
(c) a servitude  
(d) the *participation quota* in a sectional title scheme

QUESTION 2
Can a piece of land validly be sold by means of an oral agreement? Give a reason for your answer.

QUESTION 3
Write a short note explaining the effect of the following clauses in an agreement of sale:
(a) A clause stipulating that the sole risk will pass to the purchaser on possession.
(b) A clause stipulating that the sale is made conditional on the granting of a mortgage bond. Explain what will happen to the sale and a deposit paid by the purchaser, if the bond is not granted.

QUESTION 4
List four items of information that you can obtain from a deeds office computer printout.

QUESTION 5
Briefly summarise the information contained in the following parts of a deed of transfer:
(a) preamble  
(b) the extending clause  
(c) the consideration clause
QUESTION 6

(a) Are all deeds that are registered in a deeds office executed before the Registrar? (1)

(b) Give one example in support of your answer to the above. (1) [2]

QUESTION 7

What is meant by the *causa* for transfer? Explain and give one example. [2]

QUESTION 8

Explain how the mortgagee is protected in each of the following instances:

(a) if the mortgagor defaults with payment (2)

(b) if the mortgagor becomes insolvent (2)

(c) if the mortgagor wishes to sell the mortgaged property (2) [6]

QUESTION 9

In a deceased estate, transfer to an heir of the estate, the conveyancer must lodge a section 42(1) certificate. List three items of information that the section 42(1) certificate must contain. [3]

QUESTION 10

List four documents that must be lodged in order to obtain a certificate of consolidated title. [4]

QUESTION 11

In a sectional title scheme, what term is used for the property, which consists of a section together with its undivided share in the common property? [1]
SECTION C: PRACTICAL APPLICATION QUESTIONS  (20 MARKS)

ANSWER BOTH QUESTIONS

QUESTION 1

(a) Pierre and Marianne du Mont are buying property in South Africa. They tell you that at the time they were married Pierre was domiciled in France and Marianne was domiciled in South Africa. They were married in England.

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

(b) Zolile Zuma is buying property in South Africa. He is married to two wives under the Recognition of Customary Marriages Act.

How will the proprietary consequences of the marriages be regulated? (2) [4]

QUESTION 2

Bob King is selling his house to Maria Lakay. The purchase price of the house is R750 000. Maria has been granted a bond by QuickFinance Bank to finance the purchase.

(a) Maria wants to occupy the house as soon as the agreement of sale has been signed. Bob wants to charge her for the time she will be living in the house until transfer. Give Bob full advice as to what should be stated in the agreement of sale to deal with this scenario. (3)

(b) Maria likes the chandelier that is hanging in the reception area. She wants to know if the chandelier will automatically go with the house, or whether she should mention the chandelier specifically as part of the sale when making her offer? Give Maria full and reasoned advice. (3)

(c) Three days after the sale Maria changes her mind and she wants to terminate the agreement of sale.

Can she apply the cooling-off provision in terms of section 29 A of the Alienation of Land Act? Give a reason for your answer. (2)

(d) Assume you have been given instructions to take care of the transfer and registration of the mortgage bond.

Name three documents that you will prepare for signature by Bob King when attending to the transfer. (3)
(e) List the four documents to be lodged for registration of Maria's mortgage bond. (4)

(f) Who must get the original title deed after registration of the mortgage bond? (1) [16]

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