

God for all Man for all

COUNCIL OF LEGAL EDUCATION



**EXAMINATION FOR ADMISSION
TO THE ROLL OF ADVOCATES**

ATP 107: CONVEYANCING

WEDNESDAY 30TH NOVEMBER, 2016

DURATION: 3 HOURS

Instructions to Candidates

- (a) This paper contains **Five printed pages** including the cover page, with a total of **Six questions**
- (b) Candidates **MUST** answer **FIVE** questions
- (c) **Question ONE** is compulsory and carries **20 marks**
- (d) **All other questions carry 10 marks each**
- (e) Answers **MUST** be supported by relevant case law and statutory provisions where required

PLEASE TURN OVER

✓ **QUESTION ONE**

Kesha Miles is a 20 year old world famous marathoner and a citizen of Kenya. Last year he won the Boston Marathon and was awarded Kshs.100m prize money some of which he would like to invest in Kilifi County.

Miles has identified twenty acres of unsurveyed land in Kilifi County not far from the Indian Ocean coast line. He would like to acquire the land in order to build cottages for sale to international and local vacationers. The land is owned by African locals under customary title. Miles has approached several families settled on the land. They are willing to sell to him and he believes he will convince others to do the same.

Consent from NLC
change of use
Consent from NEMA

(a) What special considerations will you as Miles's Advocate take into account to eliminate the possibility of title contests and loss of his investment? (10 marks)

(b) Assuming that Miles eventually identifies willing sellers and he is ready to purchase the land, what legal processes need to be undertaken in order for him to acquire freehold title to the 20 acres of land? (10 marks)

- contract
- Execution & Attestation
- completion Date
- Execute Transfer Documents
- Launch the Transfer Docs for registration

✓ **QUESTION TWO**

Bamzi is registered as the proprietor of an estate in fee simple of a property known as Land Reference Number 97251/144/3. The property is for industrial purposes. Bamzi is a customer of Jitegemee Bank Limited which has agreed to lend him Kshs.2,000,000/= (Kenya Shillings Two Million). Bamzi intends to use the loan amount to expand his business of importing and selling farm machinery. Bamzi will execute a legal charge in favour of Jitegemee Bank Limited over his property referred to above to secure the loan. The property is registered under the Government Lands Act (Chapter 280 Laws of Kenya, repealed). It is situated in Industrial area in Nairobi County. The bank has instructed you to draft and register a legal charge to secure Kshs.2,000,000/=

Draft the legal charge.

(a) Discuss the procedure you will follow in effecting the Bank's instructions up to completion of the transaction. **Note: the procedure must follow the correct and logical sequence of the steps in the transaction.** (8 marks)

- Send it to borrower to execute & approve
- Borrower sends it back

(b) Calculate the Stamp Duty payable on the legal charge. (2 marks)

$$\begin{aligned} 1\% &= 1000 \\ 2 &= 2,000,000 \\ &= \frac{2,000,000 \times 1}{100} \text{ or } \frac{0.1 \times 2,000,000}{100} \\ &= 2,000 \end{aligned}$$

* **QUESTION THREE**

Anderson Mogoya is the proprietor of 5 acres of land located in Kericho County. He wishes to sell two of the five acres to Benson Mutuku in order to build himself and family a residential house.

The five acres are adjacent to River Magarini. Anderson will retain the three acres next to the river while disposing off the two acres northwards - as shown in this diagram: