



UNIVERSITY
OF
JOHANNESBURG

Department of Finance and Investment Management
Applied Property Law B

PVM04X7/APL8X02

LAST ASSESSMENT OPPORTUNITY

OCTOBER 2015

Time: 3 hours

Marks: 150

Assessors: Mr R Fuchs

Moderators: Mr D Griffiths

INSTRUCTIONS:

- This paper consists of **5** pages.
- Answer **ALL** questions.
- Start each question on a new page.
- Silent, non-programmable calculators may be used, unless otherwise instructed.
- Show all calculations clearly.
- Round all calculations to **TWO** decimal places, unless otherwise instructed.
- Answers with tippex and in pencil will not be marked.
- Scratch out open spaces and empty pages, **or else NO REMARK will be considered.**
- **HAND IN YOUR QUESTION PAPER.**

Question	Topic	Marks	Time
1	Expropriation	35	42 minutes
2	Case Law	25	30 minutes
3	Commercial Association	25	30 minutes
4	Contracts	20	24 minutes
5	Short Questions	10	12 minutes
6	Statutory Control	10	12 minutes
7	Dispute Solving	25	30 minutes
		150	180 minutes

QUESTION 1

[35 marks]

A family member of yours owns a property which has been earmarked for expropriation. You are consulted and asked to explain, inter alia, what expropriation is, and more specifically under the following headings:

- 1.1 In the determination of the compensation to be paid in terms of Expropriation Act, what are the rules set out in section 12
– provide an example of each subsection? **(5)**
(14)
- 1.2 Explain the difference between deprivation and expropriation by referring to our case law. **(5)**
- 1.3 What is constructive expropriation? Provide an example in your explanation. **(3)**
- 1.4 In essence, what is the impact of *Du Toit v Minister of Transport*, 2006 (1) SA? **(3)**
- 1.5 Explain what is meant by the following terms:
 - Injurious affection
 - Disturbance
 - Severance**(5)**
- 1.6 Where any portion of a cadastral unit has been expropriated, and valued for compensation purposes, what are the valuation approaches to be adopted? Provide an appropriate example of each approach. **(5)**

QUESTION 2

[25 marks]

Based on South African case law, explain when property is regarded as immovable or movable?

QUESTION 3

[25 marks]

A friend of yours wishes to start a business venture. He consults you to advise him on the formation of a commercial association. He informs you that he has determined the following:

- 3.1 He requires perpetual succession.
- 3.2 His desire is that the association to be for an open-ended time as well as for wide-ranging purposes.
- 3.3 He would also like to know what the position would be if the business is more temporary and focused.
- 3.4 His partners-to-be are not certain whether they wish to be known to the public.

REQUIRED

Advise your friend what his options are. As your friend is not certain what vehicle he should use for the commercial association, please ensure that you advise him comprehensively on this matter. Your advice should include aspects such as essentials, legal formalities, the effect of sequestration and categories.

QUESTION 4

[20 marks]

- 4.1 Discuss the circumstances under which an offer may be terminated. **(10)**
- 4.2 In order to be recognized as a valid and binding contract, the agreement must satisfy certain requirements. Name and briefly discuss them. **(10)**

QUESTION 5

[10 marks]

Answer the following questions by answering true or false:

- i. "Positive Law" is a division of Private Law.
- ii. In a personal liability company, the shareholders are jointly and severely liable for any debts and liabilities of the company that are or where, contracted during their respective periods of office.
- iii. A universal partnership may be distinguished from an ordinary partnership.
- iv. An *en commandite* partner is always limited to the share of his capital contribution.
- v. One of the characteristics of a trust is that it can only be done in the founder's lifetime.
- vi. In a family trust, the trustees may take business risks.
- vii. If, for whatever reason there is no trustee, the Master of the Supreme Court will appoint a trustee.
- viii. It is not required that a valid trust has a beneficiary.
- ix. The abbreviation "INC" in terms of the Companies Act, 2008 is to state that the personal liability company is "INCLUDED".
- x. The purpose of a trust is to benefit the trustees.

(10 x 1 mark each = 10)

QUESTION 6

[10 marks]

Against the backdrop of the National Building Regulations and Buildings Standard Act, Act 103 of 1977.

- 6.1 Under which circumstances will a local authority not approve building plans (section 7)
(5)
- 6.2 Under which circumstances will a local authority prohibit a person from erecting a building (section 10).
(5)

QUESTION 7

[25 marks]

Your advice is sought by a colleague who is involved with a dispute with a business associate. He has consulted with an attorney who has explained the implications of formal litigation (court process). Two of which are that litigation (court process) is very expensive and it takes a long time before a matter is settled.

REQUIRED

What alternative route is available to your colleague? In your reply discuss the various options under a possible solution comprehensively.

(25)

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