

Conveyancing

Tuesday 5th November 2024

9.30am to 11.00am

Candidates are required to answer TWO out of three questions.

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Question 1

Peter bought a suburban house in Renfrewshire in 2006. The transfer to Peter was a first registration. When the property was registered, the Keeper inadvertently included the driveway of the next-door neighbour's property in Peter's title. For a long time, Peter was unaware that the additional driveway was registered as being part of his property.

Six months ago, Peter's neighbours moved out and the property next door was vacant for some time. Peter started parking his car in the additional driveway. Three months ago, he checked his title when he decided to think about seeking a better deal for his home loan. He was delighted to find that the additional driveway was included in his title and continued to park his car there.

The neighbouring property has since been sold. The transfer in pursuance of this sale was also a first registration. The Keeper declined to include the additional driveway in the new neighbour's title. Peter's new neighbours have informed him that they intend to seek rectification of the land register removing the additional driveway from Peter's title and including it in theirs.

Advise Peter.

Question 2

Olive owns a plot in an industrial estate in Midlothian. There are 12 plots on the estate. Each plot is subject to a real burden which says that no more than 30% of the floor space in any building on the plot should be used "for workspaces which are available for hire by the public". The burdens nominate the other plots in the industrial estate as the benefited properties.

Each plot also benefits from a servitude of parking over the car park (which is owned by the developer) and is subject to a burden imposing an obligation to pay 1/12 of the cost of maintaining the car park.

Olive would like to subdivide her plot, selling part of it to Norrie. Norrie plans to run a business offering workspaces in a shared environment. 75% of the building which Norrie proposes to build will be given over to workspaces available for hire by the public but that 75% only will only represent 25% of the floor space of the building on Norrie's plot and that on the retained section when the two are taken together.

Olive does not use the car park and Norrie is content to take on responsibility for the 1/12 share of the car park maintenance costs.

Advise Olive and Norrie on the implications of the two real burdens mentioned for their plans.

Question 3

Martin is a solicitor. He has been working on the sale of a plot of land in Aberdeenshire which is owned by McNiven Holdings Ltd. McNiven Holdings Ltd has three directors: Arthur, Barbara and Colleen McNiven.

Martin recently arranged for the execution of a deed disposing the plot. The disposition was subscribed by both Barbara and Colleen. They also signed the plan showing the property, which was annexed to the disposition. After executing the disposition, Barbara and Colleen left for a month-long holiday in the Bahamas.

Martin sent the disposition to the buyer's solicitors, who returned it to him, pointing out that the title number of the plot, the buyer's name and the buyer's company number were incorrect. The buyer's solicitors are keen for the disposition to be registered as soon as possible.

Advise Martin on whether it is possible to correct the mistakes in the disposition without (a) re-doing the whole thing from scratch and (b) without Barbara and Colleen being involved.

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