

## **PCLL CONVERSION EXAMINATION JUNE 2011**

Title of Paper : Hong Kong Land Law  
Date : 28 June 2011  
Time : 2:30 p.m. – 2:45 p.m. (Reading Time)  
2:45 p.m. – 4:15 p.m.

### **Instructions**

1. Write your **candidate number** on the cover of each answer book. Do **NOT** write your name in the answer book.
2. Start each answer on a separate page of the answer book.
3. Write your answers only in the answer books provided.
4. This is a one and a half-hours examination.
5. This is **NOT** an open book examination. However, candidates are allowed to bring into the examination a copy of the Conveyancing and Property Ordinance and the Land Registration Ordinance. The Ordinances may not be annotated but can be highlighted. No other materials are allowed.
6. Reading time for this paper is 15 minutes. Do **NOT** begin writing in your answer books during this period until you are instructed to do so.
7. This paper consists of 4 pages, including three questions. Candidates are only required to answer **TWO** questions out of three. A total of 100 marks may be awarded.
8. Each question is worth 50 marks.
9. The passing mark for this paper is 50 marks.

**DO NOT OPEN THIS QUESTION BOOK  
UNTIL YOU ARE TOLD TO DO SO**

PCLL Conversion Examination June 2011

Hong Kong Land Law

**Question 1 (50 marks)**

In 1973 Profitable Development Ltd ('Profitable') purchased a plot of land in the New Territories ('the land') from Government for intended development. Profitable was awaiting the construction of a planned road adjacent to the land before it would proceed with the construction of a low-rise housing development on the land. The new road was never built, however, and the land remained undeveloped.

In 1978 Mr Lung, a villager who owned adjacent land, started to plant vegetables on a small part of the land. In fact by 1980, since no-one came forward to object, he had covered the whole of the land with planted vegetables. In 1983 he leased out the land to Original Farming Co Ltd ('Original') for 5 years and Original continued to use the land for growing vegetables for sale in their outlet in Kowloon. After the expiry of the 5 year lease in 1988 Mr Lung continued to grow his own vegetables on the land until his death in a road accident in June 1998.

His son Fred immediately took over the vegetable growing business on the land and in November 1998 erected a fence around the land. In January 2008 Profitable wrote to Fred saying that he must leave the land immediately as the Government had now approved plans for the construction of the road. Having received no response from Fred, Profitable commenced legal action in June 2008 to recover the land.

**(a) Advise Fred as to whether he has any valid claim to the land.**

**(42**

**marks)**

**(b) Profitable has argued that any right Fred might have had in the land had been terminated by the reversion of the New Territories to the People's Republic of China in 1997. Do you agree with this argument?**

**(8**

**marks)**

**Question 2 (50 marks)**

- (a) In May 2011 Vicki Lee ('Vicki') agreed orally with Peter Poon ('Peter') that Vicki would sell her flat known as Flat 3A Heather Court to Peter for the sum of HK\$ 5 million with completion on 1 June 2011. They also agreed that the sale would be with vacant possession. Vicki instructed her solicitor to act for her and on 15 May 2011 Vicki's solicitor wrote to Peter's solicitor as follows:

*Dear Sirs,*

*We act for Vicki Lee who has agreed to sell her flat, Flat 3A Heather Court, to Peter Poon for the price of HK\$5 million. We enclose the draft agreement for sale and purchase for approval.*

Vicki's solicitor signed the letter. On 16 May 2011 Peter's solicitor replied as follows:

*Dear Sirs,*

*Thank you for your letter of 15 May enclosing the draft agreement. We confirm that we act for Peter Poon and that we approve the terms of the draft agreement including the completion date of 1 June 2011. We will arrange for our client to sign the agreement and return it to you with the deposit.*

Peter's solicitor signed the letter, but neither party signed the agreement and later Peter decided not to proceed with his purchase.

**Can Vicki enforce the oral agreement against Peter? (24 marks)**

- (b) Laura has agreed orally to grant a lease to Tom for a term of three years starting on 1 July 2011 at a calendar monthly rent of HK\$40,000 with an option to renew for a further term of two years at a market rent at 1 July 2014.

- (i) **What are the proper formalities for the creation of the lease and option to renew. (9 marks)**  
(ii) **Should Tom register the lease and option to renew at the Land Registry to protect his priority? (9 marks)**

- (c) Sam owns a flat known as 6B Bauhinia Court which he holds under a government lease. He decides to create a trust over the flat for the benefit of his children and to make his brothers, Alex and Barry, trustees of the trust.

**What are the proper formalities for the creation of the trust? (8 marks)**

**Question 3 (50 marks)**

- (a) Francis, who is a male indigenous villager from a listed village, wishes to build a small house on land that he owns in his village. Briefly explain to him

**(i) what steps he must take in order to be entitled to build such a small house; any limitations upon the house that might be constructed; and what documents he must obtain to ensure his good title to the house. (18 marks)**

Francis has now constructed a small house on his land. He wishes to sell the house to Mr Smith, who is an Australian citizen.

**(ii) Is he permitted to do so and, if so, on what terms? (7 marks)**

- (b) Sally owns 20 undivided shares in a multi-storey building in Kowloon together with the exclusive right of occupation, use and enjoyment of Flat 4 on the Fifth floor. She wishes to subdivide her flat into two smaller flats.

**May she do so? If so, how will this subdivision be effected so that Sally may assign one of the flats to her friend Jill? (15 marks)**

- (c) Victor has just purchased a vacant plot of land in North Point. The Conditions of Sale dated 1970 affecting the land stipulate that a factory had to be constructed on the land. In 1971 a factory had been constructed on the land by the original grantee and the factory had been demolished in 2009.

**Victor wishes to know whether he may now construct a block of flats on the land. Advise him. (10 marks)**

**~ End of Examination Paper ~**