

## **PCLL CONVERSION EXAMINATION JUNE 2021**

Title of Paper : Hong Kong Land Law  
Date : 28 June 2021  
Time : 1:00 p.m. – 1:15 p.m. (Reading Time)  
1:15 p.m. – 2:45 p.m.

### **Instructions**

1. This is an open book examination.
2. Write your **candidate number** on the cover of each answer book. Do **NOT** write your name anywhere in the answer book.
3. Write your answers only in the answer books provided. Start each answer on a separate page of the answer book.
4. This is a one and a half-hour examination. In addition, there is 15 minutes' reading time. Do **NOT** begin writing in the answer book until you are instructed to do so.
5. This paper consists of 4 pages. Candidates are required to attempt any **TWO** out of three questions. Where a question is in two or more parts, all parts must be answered.
6. Candidates must give reasons for all their answers.
7. The total worth of this paper is 100 marks. Each question carries 50 marks.
8. Candidates must score at least 50 out of 100 marks to pass this paper.

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

PCLL Conversion Examination June 2021

Hong Kong Land Law

**Question 1 (set out on pages 2 and 3 hereof) (50 marks in total)**

Adam owns a flat (“the flat”) on 12<sup>th</sup> Floor of Hope Mansion (“the Building”), which was built in 2010 on Inland Lot No 219 (“the Lot”).

The flat has changed hands several times since 2010. Adam bought the flat from its previous owner by virtue of an Assignment dated 1<sup>st</sup> April 2016 which provided, amongst other things, that the flat was sold “subject to and with the benefit of a Deed of Mutual Covenant (‘DMC’) relating to the Building”.

The DMC was dated 1<sup>st</sup> October 2010 and the parties thereto were Hope Co Ltd (as the developer), Amanda Chan (as the purchaser of the first flat of the Building to have been sold) and Efficient Management Limited (as the Building Manager). The terms of the DMC include the following:

- (i) The Building Manager has the authority to manage the Building and enforce the provisions of the DMC.
- (ii) Each owner shall use the flat of which he has the exclusive use, occupation and enjoyment for residential purposes only and shall not conduct any trade or business or profession or calling whatsoever therein.
- (iii) No owner shall create any noise which may be a nuisance or annoyance to the other occupiers of the Building.
- (iv) All management and other charges relating to the Building shall be paid by all owners in proportion to their respective undivided shares of and in the Building and the lot upon which the Building was erected.
- (v) No owner shall keep any pets.

An Owners’ Corporation in respect of the Building has been properly formed under the Building Management Ordinance (Cap 344).

Adam has rented out the flat to Eve under a written tenancy agreement which provides, amongst other things, for Eve to pay the management charges in respect of the flat.

Advise the Building Manager about the liability of Adam and/or Eve, if any, upon the occurrence of the following events:

- (a) The management charges in respect of the flat have not been paid since March 2021. **(20 marks)**

(b) Loud noises have been emanating from the flat as Eve is giving paid dog-training sessions in the flat everyday.

**(10 marks)**

(c) Eve, to create more space, will move some large furniture from the flat to the lift lobby on 12<sup>th</sup> Floor and leave it there for the duration of her abovementioned dog-training sessions. The other neighbours' access to and from the lifts on 12<sup>th</sup> Floor is greatly impeded whenever Eve's large furniture is left in the lift lobby.

**(20 marks)**

**Question 2 (50 marks)**

Peter, Paul and Mary studied law at the same university and became very good friends.

In 1980, they bought a house ("the house") in Sai Kung, free of mortgage, in joint names. They made equal contributions to the purchase price but their respective interests were not mentioned in the Assignment that they executed. They told their solicitors at the time that their intention was for the last one of them to die to own the whole house.

In 1995, Peter made a will and left all his estate to his brother William. Paul and Mary then followed suit and made their respective wills. Paul left his whole estate in his will to his brother Romeo and Mary left hers in her will to her sister Juliet.

Mary died suddenly last week of a heart attack. Owing to Mary's sudden death, Peter and Paul decided to make plans for their own "shares" in the house. They reached an oral agreement ("oral agreement") yesterday to the effect that they would from then on have separate ownership of the house, that is, either of them could deal with his own separate share in the house, freely and without reference to the other.

Peter and Paul telephoned their solicitors in Central this morning to make an appointment to discuss their oral agreement. Unfortunately, they were both killed when the mini-bus that Peter and Paul had boarded to travel to Central was hit from behind by a speeding vehicle.

Who, William, Romeo and/or Juliet, is/are now entitled to the ownership of the house? If you require further information to answer this question, state what it is and the reason(s) why it is needed.

**Question 3 (50 marks)**

You are working as a solicitor at the law firm of Safe and Sound and Anita is one of its clients. Anita and Ben are good friends. As Ben wishes to emigrate, Anita has agreed to buy Ben's flat ("the flat") in Wanchai, which he owns free of mortgage. Ben has told Anita before that his brother, Calvin, occasionally stays overnight with him at the flat.

Anita has just complained to Safe and Sound about the enquiries it made with Ben's solicitors regarding Calvin's occupation at the flat and his possible interest therein. Anita's view is that such enquiries are "far too personal and absolutely unnecessary" because, according to the land search obtained from the Land Registry, Ben, not Calvin, is already the "registered owner" and Ben should, therefore, be able to sell a good title, both legal and equitable.

Discuss, with reference to relevant statutory provisions and case authorities, whether you agree with Anita's view. How, if at all, will your answer be different if Calvin is Ben's father instead of his brother?

**~ End of Examination Paper ~**