

**PCLL Conversion Examination**  
**January 2022**  
**Examiner's Comments**  
**Hong Kong Land Law**

The PCLL Conversion Examination Hong Kong Land Law was conducted in January 2022. This is an open book examination in which candidates must answer two out of three questions.

**Overall Comments**

A preliminary observation is that candidate chose relatively evenly across the questions. The general standard of answers was quite good with a few excellent papers. There were a few very poor papers. These evidenced poor preparation with some parts of questions remaining unanswered.

**Question Specific Comments**

**Question 1** was a question about conditions in land grants divided into three main parts. In part (a), candidates had to identify the difference between Conditions of Sale and Conditions of Exchange. Candidates then had to identify that a grantee under Conditions of Exchange will receive an equitable interest in the land, which will be converted into a legal interest when all the positive conditions in the Conditions of Exchange have been fulfilled but also providing that none of the negative conditions have been breached: CPO, s.14(1)(a). Candidates attempting this question answered this part generally very well. Better answers then explained about letters of compliance and registration requirements. The final question in part (a) required candidates to identify the importance of the dating of Conditions of Exchange before or after 1<sup>st</sup> January 1970.

Part (b) required candidates to explain when and how conditions might bind successors to the original parties to the sale of the land. Again, the majority of candidates who attempted this part provided quite good basic answers, noting that to be binding on successors the term must relate to the land and have been expressed as or intended to run with the land. Better answers then correctly applied the law to the fact pattern, noting how terms may become spent and considered whether the identified term would be of continuing importance and thus bind the successor. The final question in part (b) concerned defences based on estoppel or waiver. Most candidates attempting this question identified the defences.

Part (c) concerned Block Government leases and the covenants contained in them. Candidates had to cite the authorities for the interpretation of these covenants: *Watford Construction Co. v Secretary for the New Territories* [1978] and *AG v Melhado Investments Ltd* [1983]. Most candidates who attempted this question answered this part very well, with some achieving full marks.

**Question 2** was divided into three parts. Part (a) concerned the Small House Policy. Candidates were required to explain what an applicant under the Policy is required to do to build an exempt house, what restrictions are applied to the structure, and what documents are required for alienation. Most of the candidates who attempted this part did very well.

Part (b) required candidates to explain the concepts of fixtures and fittings and the applicable law. Again, candidates who attempted this part tended to do very well.

Part (c) required candidates to explain the legal relationship of parties to a Deed of Mutual Covenant. Candidates had to explain that the parties are co-owners as tenants in common of the undivided shares in the property with use of their own flat and the right to occupy and enjoy this flat.

**Question 3** was a question about formalities for leases. Parts (a) and (b) concerned a fact pattern where negotiations were ongoing between parties for the sale and purchase of premises. Candidates had to identify if there was an agreement which might be enforced. Candidates had to identify if there was a concluded agreement, if the written communications constituted a “note or memorandum” (s.3(1) CPO), and if the solicitors have been authorised to sign a memorandum or note on behalf of their respective clients. For part (b) candidates were required to explain communications headed “subject to contract”.

Part (c) rounded off the consideration of lack of formality, as candidates were required to explain the doctrine of part performance, giving examples of acts that might evidence that the doctrine could be applied.