



THE LAW SOCIETY OF SCOTLAND
QUALIFIED LAWYERS ASSESSMENT

CONVEYANCING

2 November 2021

0830 – 1000
(90 minutes)

Candidates are required to answer TWO out of three questions.

Question 1

James is a farmer. He was interested in buying a large field which belongs to MacLean and MacKenzie Ltd. He telephoned Sophie MacLean, one of the directors of MacLean and MacKenzie Ltd. James and Sophie agreed that the field would be sold to James for £3000.

Following the phone call, James purchased additional livestock, which he intends to keep on the new field. Sophie was present at the livestock sale where he made the purchase and saw him bidding. He had not told her of his intention to keep the livestock on the field.

A few days later, James paid the fee he had agreed with Sophie to MacLean and MacKenzie Ltd. Thereafter, he received a disposition transferring the field. The disposition bears to have been signed by "Sophie MacLean, director" and by "James MacKechnie, company secretary". In other respects, the disposition was as expected.

When James submitted the disposition for registration it was rejected.

Advise James on whether the Keeper was entitled to do so and on whether he is entitled to a differently executed disposition from MacLean and MacKenzie Ltd.

Question 2

Karla recently inherited a house and garden in Skye from her aunt, Linda. Linda acquired the property 30 years ago from Colin by means of a break-off disposition which was recorded in the General Register of Sasines. Colin retains the land around the property on the east, west and south. (The property is bounded to the north by the main road.) The garden is enclosed by a drystone dyke. For the last 20 years of her life, Linda had cultivated flowerbeds around the inner side of the drystone dyke.

Registration of the transfer to Karla prompted first registration. When Karla examined the title sheet produced by the Keeper, she found that a 5-foot-wide strip at the bottom of her aunt's garden was not included in the title. Further investigation reveals two reasons for the Keeper's approach to mapping the garden.

First, the disposition from Colin to Linda described the subjects being disposed "... extending 300 feet south from the main road and bounded by a drystone dyke." The dyke at the south of the garden is in fact 305 feet from the main road.

Secondly, Colin had completed voluntary first registration of the property which he retained last year and the Keeper included the 5-foot strip in Colin's title.

Who owns the 5-foot strip and what can Karla do about the situation?

Question 3

Thomas owns a house in a housing estate Newton Mearns. Like the other houses in the estate, his title incorporates burdens imposed by means of a deed of conditions:

- a) An obligation to pay the cost of maintenance of the “common areas” to the maintenance company which owns the “common areas”.

Thomas’ title contains no explicit rights to use the “common areas”. The extent of the common areas was only determined when the final house in the development was built. Thomas bought one of the first houses in the development to be completed, some months before the development was completed.

- b) A prohibition on the use of his property for business purposes.

Thomas has been running his IT business from this house for the past three months. His work is all done remotely. No customers come to the house, but the nature of his work does mean that he receives more deliveries than he would do otherwise.

- c) A condition prohibiting the growing of vegetables in front gardens.

A number of Thomas’ neighbours have started growing vegetables in their gardens and Thomas would like to do so.

Advise Thomas on whether he needs to worry about any of these burdens being enforced against him.

END OF QUESTION PAPER