THE LAW SOCIETY OF SCOTLAND
QUALIFIED LAWYERS ASSESSMENT

CONVEYANCING

8 November 2022

0830 – 1000
(90 minutes)

Candidates are required to answer TWO out of three questions.
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Question 1

Colin is in the process of purchasing a commercial unit in Kelvinburn Industrial Estate, Glasgow from Derek’s Depot Ltd. Derek’s Depot has 2 shareholders: Derek Draper and his wife, Delia Draper. It has 2 directors: Derek Draper and Wilma Waldron.

Although no written contract of sale was executed, a price was agreed. Colin has been presented with a disposition of the unit which bears to be signed by Derek and Delia. In the testing clause they are designated as “Derek Draper, Director of Derek’s Depot Ltd” and “Delia Draper, Majority Shareholder”.

The disposition purports to convey the commercial unit which Colin wants to buy “together with a right in common to the common areas in Inverkelvin Industrial Estate, in equal shares, the extent of which common areas will be determined when the final unit is conveyed.”

Advise Colin on whether the disposition which he was given is valid, whether the Keeper is likely to accept it for registration, and whether the disposition would give Colin any right to any common areas.

Question 2

Dominic owns a farm in Morayshire. Access to part of his property is along a private road owned by Elspeth. Dominic has been driving along the road to access his property for the past thirty years. Neither Elspeth nor her predecessor in title has ever said anything to him about his use of the road until six months ago, when potholes developed in the middle of the road. Until then, the road had always been kept in good condition. For that reason, vehicles were never driven on the verge.

Dominic had started driving onto the verge to avoid the potholes but Elspeth has been in touch to complain about Dominic driving on the verge. She suggested that Dominic should be grateful that she lets him use the road at all.

Advise Dominic on whether he needs Elspeth’s permission to a) drive on the road; b) drive on the verge; c) fix the potholes and on whether he can require Elspeth to contribute to the cost of fixing the potholes.
Question 3

James recently purchased a house in Kirkcaldy. The property was registered in the land register. James bought the property from Keith, who was shown as the owner in the proprietorship section of the title sheet.

The Keeper accepted the disposition from Keith to James and James’ grant of a standard security in favour of Bank of Alba plc.

The following facts have now come to light. Keith was registered as the owner 4 months ago. Before Keith, the registered owner was Louise. Louise’s signature was forged on the disposition in favour of Keith by Linda. By the time she signed the disposition in favour of Keith, Linda had been living in the house and posing as Louise for 10 months.

Advise James on who owns the house and on any rights he may have against the Keeper, Keith or Louise.

END OF QUESTION PAPER