

Examiners' Comments on the 2006 Examination

Head I: Conveyancing

In last year's report we mentioned that candidates seemed unprepared for a question on stamp duty. This year candidates were better prepared for Question 1(c).

The majority of candidates were well prepared. The following remarks are relevant to those that were not.

Question 1

- (a) A number of candidates referred to either renewal of the Government Lease in 1973 or extension of the Lease in 1997 but not to both.
- (b) A number of candidates did not deal with Condition 7(2) of Part A of the Second Schedule to the Conveyancing and Property Ordinance Cap 219.
- (c) Most candidates could answer this question. Not all referred to the need for a certificate of value and some said that this should be given by a solicitor rather than the parties to the instrument.

Question 2

- (a) A number of candidates did not refer to Violet's express obligation to show title.
- (b) A number of candidates failed to recognise that the Assignments were dated more than 15 years before the date of the Agreement between Violet and Paul.
- (c) Most candidates referred to s13 of the Conveyancing and Property Ordinance Cap 219. Some did not consider whether Peter should be satisfied with a certified copy of a Power of Attorney.
- (d) A number of candidates failed to recognise that James Wong is the attorney of the Green Bank and that a declaration by him that he did not know of any revocation of the Power of Attorney is not good evidence of non-revocation. A number of candidates referred to the possibility of the Green Bank confirming that the Power had not been revoked. However, they should also indicate that this confirmation leads to the conclusion that there is no real risk of a challenge to title rather than a conclusive presumption of non-revocation under s 5(4) of the Powers of Attorney Ordinance Cap 31.
- (e) A number of candidates failed to notice that the Conditions were dated before 1 January 1970.
- (f) The facts do not state whether Alice Tam and Barbara Chu were selling in the course of administration.

Question 3

Very few candidates attempted this question.

- (a) This required a knowledge of s 3 of the Conveyancing and Property Ordinance Cap 219 and the doctrine of part performance.
- (b) Most candidates failed to mention s 4 of the Powers of Attorney Ordinance Cap 31.
- (c) Most candidates failed to apply the full agreement clause to the oral representations referred to in the facts.

Question 4

- (a) A number of candidates did not consider whether the terms of the provisional agreement required the parties to sign a formal agreement.
- (b) A number of candidates failed to give any authority for applying the doctrine of notice to determine the priority of interests.
- (c) This was well answered.
- (d) A number of candidates failed to mention the risks associated with completing by way of undertaking.

Question 5

- (a) Many candidates demonstrated a good knowledge of the principles.
- (b) A number of candidates failed to mention *Fast Forward Ltd v Magicsound Co Ltd* [1991] 2 HKLR 529.
- (c) This was well answered.