

**CONVEYANCING PRACTICE
PART 2**

8 SEPTEMBER 2021

MEMORANDUM

GENERAL NOTE AND DISCLAIMER: This memorandum serves as a guideline to candidates to prepare for the conveyancing examination. The information is provided in good faith by the Law Society of South Africa (LSSA) and the LSSA, the drafters and the examiners will not be liable for any errors or omissions.

The content of the memorandum may not reflect the most current development. Further, there may be justifiable variations in practice which are brought out in the answers.

The purpose of questions that require drafting is to ensure that the candidate can properly draft documents to be registered. Answers that are not exactly the same as those contained in this memorandum but which are nonetheless correct, will be marked accordingly.

Descriptions of parties, properties and extending clauses are extremely important as the Deeds Offices do not allow any deviations and accuracy is thus extremely important.

QUESTION 1 **[42]**

- 1.1 1 Sean Connery
Identity Number 760904 5025 081
Unmarried
(*Bare Dominium* Owner of the property)
- 2 Peter Connery
Identity Number 800712 5535 082
Married in Community of Property to Rachel Connery
(*Usufructuary* in respect of the herein mentioned property) (4)
- (note: a usufruct does not form part of the community of property)
- 1.2 1 Gert Brits
Identity Number 440212 5025 081
Unmarried
(the *Fiduciary*)
- 2 Piet Brits
Identity Number 840214 5535 082
Unmarried
(holder of the *Fideicommissary* rights in the within property)

- 3 Jan Brits
Identity Number 860105 0043 081
Unmarried
(holder of the *Fideicommissary* rights in the within property) (6)
- 1.3 We, the undersigned Peter Khumalo and Sophie Khumalo

Parents and natural guardians of
Vuzi Khumalo
Identity Number 160405 5028 081
a Minor

(child is younger than 7) (2)
- 1.4 Max Behr
Identity Number 070504 5067 087
Minor

Duly assisted by his parents and guardians Peter Behr and Anne Behr (4)
- 1.5 I, the undersigned

Graig Johnston in my capacity as curator in the estate of the mental patient
Sue Gordon
Identity Number 651011 0043 081
Unmarried

Duly appointed according to a letter of Authority issued by the Master of the Northern
Gauteng High Court, at Pretoria, on 6 January 2012 (3)
- 1.6 I, the undersigned

Graig Johnston duly appointed by virtue of Letter of Authority issued by the Master of
the North Gauteng High Court, Pretoria dated the 8th of January 2020 in my capacity
as curator in the estate of the mental patient
Sue Gordon
Identity Number 651011 0043 081
And
Jason Gordon
Identity Number 661111 5053 08 0
Married in Community of Property to each other (4)
- 1.7 I, the undersigned

JOHN COETZEE

in my capacity as the Sheriff of the Magistrate's Court Pretoria and duly authorised
hereto by virtue of a writ issued by the clerk of the court at Pretoria on the 18th
January 2021. (3)

1.8 We, the undersigned
Peter Swart and Jane Landsberg
Trustees of the
THE BODY CORPORATE OF THE LINK SCHEME
NO. SS 7747/2019

duly authorised hereto by virtue of a Unanimous Resolution of the said Body Corporate dated the 6th of February 2021. (4)

1.9 We, the undersigned

1. PETER SWAY, as nominee of ABSA TRUST LIMITED, who was appointed as Executor in the Estate Late SUE BLACK, acting under Letters of Executorship No. 1234/2011 issued by the Master of the Southern Gauteng High Court, at Johannesburg on 4 February 2021.

and

2. JOHN BLACK
Identity Number 430105 5263 081
Widower
In my capacity as surviving spouse of the deceased with whom I was married in community of property (4)

1.10 I, the undersigned
Megan Douglas in my capacity as executrix in the estate of the late Kirk Douglas acting under Letters of Executorship No 1234/2020 dated the 24th August 2020 issued by the Master of the KwaZulu-Natal High Court. (4)

1.11 I, the undersigned
Roger Black
in my capacity as Representative in the estate of late Lily White, duly authorised by a Letter of Appointment, in terms of Section 18(3) of the Administration of Estates Act 66 of 1965, issued by the Master of the Northern Gauteng High Court at Pretoria, on 3 February 2009. (4)

QUESTION 2 **[8]**

2.1 the joint estate of the late Paul Conley
Estate number 2364/2019
And his surviving spouse Mary Conley
Identity Number 760901 0024 082
Widow (2)

2.2 The Joint Estate of the late
Sue Gibbs
Estate number: 12344/2021
And subsequently deceased spouse
Fanie Gibbs
Estate Number 12345/2021 (2)

2.3 The Joint Estate of the late
Sue Gibbs
Estate number: 12344/2021
And the late
Fanie Gibbs
Estate number: 12345/2021 (2)

2.4 The joint estate of Late the Sue Gibbs
Number 1234/2021
And her surviving spouse
Fanie Gibbs
Identity Number 760901 5024 082
Now married in community of property to Anne Gibbs (2)

QUESTION 3 **[18]**

3.1

Section 25 of the Deeds Registries Act States

Transfer to unascertained children

- (1) If land or a real right or a bond is donated or bequeathed to the children born or to be born of any person or of any marriage, or is otherwise acquired on behalf of such children, transfer of the land or cession of the real right or bond on behalf of such children may be passed in the case of children born or to be born of a person, to that person in trust for such children, and in the case of children born or to be born of a marriage, to the person who would be the guardian of those children during their minority, in trust for such children.
- (2) If land or a real right or a bond is donated to the children born or to be born of any person or of any marriage, the person to whom transfer or cession may be passed in terms of sub-section (1), may for the purposes of such transfer or cession, accept the donation.
- (3) When the identity of all such children has been established the registrar shall make an endorsement on the title deed or bond setting out their names, whereupon the title deed or bond shall be deemed to be to and in favour of such children in the same manner as if the transfer or cession had originally been passed to them by name notwithstanding the provisions of section 17 (1).

Deeds Office requirements

- Written application must be made by or on behalf of all the children. If some of them are minors or incompetent in another way, they should be assisted or, where necessary, the application must be brought by their lawful representatives.
- Proof must be submitted that the identity of all the children has been established. Depending on the circumstances a certificate of next-of- kin or a court order must be lodged. A registrar of deeds will only accept a court order that a woman cannot procreate any further children (Ex parte Harmse 1917 TPD 585).

- If the land or real right is hypothecated by a registered bond, the mortgagee's consent is not required and the bond need not be lodged (see RCR 31 of 1972).
- No rates clearance certificate needs to be lodged (see RCR 28(b) of 2011).

(8)

3.2

PLEASE NOTE; Suggested form of application. Candidates may use own particulars.

PREPARED BY ME
CONVEYANCER
FULL NAMES
LPC NUMBER

AFFIDAVIT AND APPLICATION IN TERMS OF SECTION 25(3) OF ACT 47/1937

I, the undersigned

.....*FULL NAMES*
IDENTITY NUMBER.....

Married in community of property to which community of property is excluded in respect of the undermentioned property in terms of the will dated of John, do hereby make oath and say:

1. In his will dated the deceased..... bequeathed ERF.....property description..... to the children born or to be born of the marriage between MAXY GREY, IDENTITY NUMBER 710622 0043 08 7 and PETER GRAY, IDENTITY NUMBER.....
2.died on as per the true copy of his death notice lodged herewith.
3. I am the only child born from the marriage between Maxy Grey and Peter Gray aforesaid. I am married in community of property to Werner Green which community of property is excluded in the aforesaid will.
4. I hereby make application to the Registrar of Deeds,, for the endorsement of Deed of Transfer Number in terms of the provisions of the above section, setting out my particulars to the effect that the said deed be in my favour in the same manner as if transfer had originally been passed to me by name.

Signed and date etc.

and

.....
Certificate by Commissioner of Oaths

(10)

4.1Occupational rental

R9300/31 X10 = R3000 (1)

Levies

R620/31 X 10 = R200 (1)

Transfer Duty

1 – 1000 000 0%

1 000 001 – 1 375 000 3% of the value above R1 000 000

R1 200 000 – R1000 000 = R200 000

R200 000 x3 / 100 = R6000 (4)

4.2 *Notes to examiners: Candidates must show an ability to prepare an account. Entries must show that the candidate is able to make correct entries and **if not**, no marks must be allocated for those entries which happen to be correct.*

Purchaser Final Account

Mr P de Vries

	DATE: 2022-03-02
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Final (Registration) Statement: Transfer of Unit 10 Owl Court

To: Purchase Price	1 200 000.00	
To: Fees per account 25/02/2021	13 500.00	
By: Payment Received 21/08./2021- deposit		400 000.00
By: Payments received 23/08/2021- costs		57 000.00
By: Payment received in terms of guarantee: Super Bank		800 000.00
By: Interest on Investment		4 295.00

By: Payment received - occupational rental		9 300.00
To: Pro rata levies - Owl Court 11-31/10 @R620pm	420.00	
To: Levy certificate fee paid Owl Court Body Corporate	550.00	
To: Postage and Petties	600.00	
To: FICA Verification fees	350.00	
To: Transfer Duty paid to SARS	6 000.00	
To: Deeds Office Registration Fees	650.00	
To: Pro rata occupational rental 01/10-31/10/2021	3 000.00	
Credit Balance	45 525.00	
TOTALS	1 270 595.00	1 270 595.00

(14)

Seller Final Account

Mr J de Villiers

DATE: 2021-08-16

Final Statement: Transfer of Unit 10 Owl Court to P de Vries

Per: Selling price		1 200 000.00
To: Paid Union Bank bond cancellation (settlement) figures	522 376.90	
To: Gouws & Partners Inc: Bond cancellation costs (including VA) - Union Bank Mortgage Bond	1 980.00	
To : Paid Agents commission – AIDA (including VAT)	66 000.00	
To: Paid LBC Inc.: bond cancellation costs (including VAT): Mortgage Bond in favour of M Tswikalo	1 430.00	
To: Paid Levies- Owl Court Body Corporate : 1 July to 10/10/2021	2 060.00	
Per: pro rata occupational rental 1-10/11/2021		3 000.00
Nett Proceeds	606 153.10	
TOTALS	1 203 000.00	1 203 000.00

(10)

5.1

Prepared by me

Conveyancer
FULL NAMES
LPC NUMBER

Application in terms of section 40 of the Administration of Estates Act No. 66 of 1965

I, the undersigned

Grant Strong

In my capacity as Executor in the estate of the late Brian Strong, Estate number 40/2021, acting under authority of letters of executorship granted to me by the Master of the Cape Town High Court, Cape Town on the 15th January 2021.

Do hereby, in terms of the above section apply for the endorsement of

Mortgage Bond: B8642/2009

Passed by: Angela Botha
Identity Number 500503 3020 08 1
Unmarried

In favour of: The late Brian Strong

For the sum of: R200 000 (two hundred thousand rand) together with the further sum of R50 000 (fifty thousand rand) to secure contingent cost and payments.

To the effect that the said mortgage bond is to be administrated in terms of the trust created in the will dated 11 July 2000 of the said late Brian Strong.

Signed at Cape Town on 7 May 2021.

G STRONG

Apart from the bond and the application only a copy of the will certified by the Master and endorsed as having been accepted by him to approve the devolution of the bond upon the testamentary trust needs to be lodged. A section 42(1) Conveyance Certificate in terms of the Administration of Estates Act is not required as a bond is regarded as movable.

(15)

5.2

Prepared by me,

CONVEYANCER
FULL NAMES
LPC NUMBER

CONSENT TO ENDORSEMENT OF PART PAYMENT

I/We, the undersigned,

Examiners must please note that the trust has now been created and that the description will now be the trustees signing

For example:

“The Trustees of the Brian Strong Trust No. _____ or if no name has been given “The Trustees of the Trust created in terms of the Estate of the Late Brian Strong No. _____

The legal holder of the undermentioned Bond

Mortgage Bond: B8642/2009

Passed by: ANGELA BOTHA
IDENTITY NUMBER 500503 3020 08 1
UNMARRIED

In favour of: The Late Brian Strong

For the sum of: R200 000 (TWO HUNDRED THOUSAND RAND) together with the further sum of R50 000 (FIFTY THOUSAND RAND) to secure contingent costs and payments.

Do hereby consent to a part payment of R75 000 (SEVENTY FIVE THOUSAND RAND) being registered against the abovementioned bond.

Signed at Cape Town on 7 May 2021.

As Witnesses:

1. _____

2. _____

G Strong

(10)

6.1

Prepared by me,
CONVEYANCER
FULL NAMES
LPC NUMBER

APPLICATION IN TERMS OF SECTION 22(1) OF THE SECTIONAL TITLES ACT NO. 95/1986

We, the undersigned,

JO DUBE
IDENTITY NUMBER 550911 5203 08 0

AND

LUCY DUBE
IDENTITY NUMBER 680111 0062 08 7

MARRIED IN COMMUNITY OF PROPERTY TO EACH OTHER

Do hereby apply to the Registrar of Deeds at Pretoria for:

1. The registration of the attached sectional plan of subdivision of a section in terms of Section 22(1) of the Sectional Titles Act No. 95 of 1986, in respect of Section No. 21 and Section No. 22 formerly Section 1 as shown and more fully described on Sectional Plan No. _____ in the scheme known as Bella Bella in respect of the land and building or buildings situate at _____ and held under Deed of Transfer ST 22/2002.
2. The issue of certificates of registered sectional title in terms of the provisions of section 22(5) of the aforesaid Act in respect of the sections shown on the said sectional plan of subdivision.

Signed at _____ on _____

As Witnesses:

1. _____
2. _____

Signed

(10)

6.2

Prepared by me,
CONVEYANCER
FULL NAMES
LPC NUMBER

CONSENT

We, the undersigned,

AND

In our capacity as Signing Officials of HEL BANK LIMITED, Reg. NO. 51/00847/06 ('the Bank') being duly authorised hereto by virtue of a Resolution passed at a Meeting of the Board of Directors of the Bank, the legal holder of the undermentioned Mortgage Bond, namely:

MORTGAGE BOND NO.	SB44/2002
PASSED BY:	JO DUBE
	IDENTITY NUMBER: 550911 5203 08 0
IN FAVOUR OF:	HEL BANK LIMITED NO. 83/06636/06
IN THE SUM OF:	R900 000.00 (NINE HUNDRED THOUSAND RAND)

PLUS A FURTHER SUM OF: R180 000.00 (ONE HUNDRED AND EIGHTY THOUSAND RAND)

Do hereby consent to:

- (a) The registration of the sectional plan of subdivision and subdivision of section 1 into sections to be known as sections 21 and 22 in the scheme Bella Bella subject to the abovementioned bond in accordance with Sectional Plan No. SG No. _____;
- (b) The issue of Certificates of Registered Sectional Title in respect of sections 21 and 22 and the proportionate share of the common property attached to such sections according to the participation quotas reflected in the said Sectional Plan;
- (c) The endorsement of the abovementioned bond to the effect that it attaches to the sections and common property as shown on the said Sectional Plan.

Signed at _____ on _____

As Witnesses:

- 1. _____
- 2. _____

(9)

6.3

- 1) The application of subdivision.
- 2) Two copies of the sectional plan of subdivision.
- 3) Deed of Transfer No. ST22/2002.
- 4) Sectional Mortgage Bond No. SB44/2002.
- 5) Consent of Hel Bank Limited.
- 6) Certificates of Registered Sectional Title in respect of units 21 and 22.

(5)

6.4 No. See CRC 18/1997 item 9.

SECTION 21

The consent by the trustees of the body corporate for consolidation or subdivision of a section must be obtained before submitting the draft sectional plans to the Surveyor General for approval. The lodgement of such consent is therefore unnecessary on registration of the sectional plan or consolidation.

(2)

QUESTION 7

[30]

7.1

Prepared by me
Conveyancer
FULL NAMES
LPC NUMBER

Application for endorsement in terms of Section 45(1) of the Deeds Registries Act, 47 of 1937

We, the undersigned,

1. Peter Fourie in my capacity as executor in the estate of the late Yvonne Loots, Estate No. 120/2008, duly appointed by virtue of Letters of Executorship issued to me by the Master of the High Court (Northern Cape Division) on 28 January 2021.

and

2. Albert Loots
Identity Number 531108 5093 087
unmarried,
in my personal capacity as surviving spouse of the deceased to whom I was married in community of property

do hereby declare as follows:

WHEREAS in terms of the joint Will dated 1 March 2010, executed at Kimberley, of the said Albert Loots and the said Yvonne Loots (who died on 3 January 2018) their respective estates were massed and the whole of such massed estate, including the land described below was bequeathed to the said Albert Loots, subject to the following special conditions:

- “2. We bequeath the whole of our massed Estate to the survivor of us, provided that upon the death of the survivor of us, the whole of the then estate of the survivor shall devolve upon our children born of our marriage in equal shares.
3. Any benefit conferred under this Will upon any beneficiary shall devolve upon such beneficiary as the sale and absolute property of such beneficiary and shall not form part of any community of property which may then exist or which might thereafter come to being between such beneficiary and his/her then spouse or any future spouse.”

AND WHEREAS the said Albert Loots has adiated;

NOW THEREFORE do hereby apply in terms of section 45(1) for the endorsement of Deed of Transfer No T 100/2000, holding:

ERF 35 in the town of Douglasville
Registration Division JO, Province of North West
MEASURING 2 000 (two thousand) square metres

to the effect that I the said Albert Loots shall be entitled to one-half share of the abovementioned property by virtue of the marriage in community of property, and one-half share of the aforementioned property by virtue of the massed estate of the Late Yvonne Loots and myself the said Albert Loots, as if I had taken formal transfer into my own name of the share of my deceased spouse, subject, however,, as regards the whole of such land, to the abovementioned special conditions contained in the aforesaid mutual Will and Testament.

THUS DONE and SIGNED at KIMBERLEY on the 9th September 2019.

AS WITNESS:

1. _____
EXECUTOR

2. _____
ALBERT LOOTS

(10)

7.2

- 1) The Title deed to be endorsed – T100/2000.
- 2) Conveyancer certificate in terms of Section 42(1) of Administration of Estates Act.
- 3) Copy of the Will certified by the Master with his acceptance endorsed.
- 4) Prove of Adiation, either a copy of a document of adiation certified by the Master or a Conveyancer's Certificate or an affidavit by the surviving spouse.
- 5) Application in terms of Section 45(1) of the Deeds Registries Act for endorsement of the Title Deed.
- 6) Rates clearance
- 7) Transfer duty receipt/ exemption or in certain Provinces VAT clearance

(10)

7.3

1. ALBERT LOOTS
Identity Number 531108 5093 08 7
Unmarried
As to ½ share and
2. ROBERTA SMITH
Identity Number
Married in community of property to Louis Smith, with exclusion of the community of property in respect of the land hereinafter described by reason of a condition in the joint Will of the late Yvonne Loots and Albert Loots dated 1 March 2000.
As to 1/6th share
3. JOHN LOOTS
Born on 11 March 1995
A mental patient
As to 1/6th share
4. ADAM LOOTS
Identity Number 910912 5054 08 1
Born on 12 November 1991
Unmarried
As to 1/6th share

Their heirs, executors, administrators and assigns

Property description

Erf 35 in the town of Douglasville
Registration Division J.Q., Province of North West
MEASURING 2000 (two thousand) square metres

ALTERNATIVE 2: Description of the parties and property

As an alternative transfer may be given to the children of the deceased ½ share and application made to endorse Title T100/2000 to the effect that remaining ½ share in Erf 35 Douglasville vests solely in ALBERTS LOOTS – Endorsement will be in terms of Section 3(1)(V) Act 47/37 and vesting will be described as follows in Deed of Transfer to children:

1. ROBERTA SMITH
Identity Number.....
Married in community of property to LOUIS SMITH which community of property is excluded in respect of the undermentioned property by virtue of the conditions contained in the Will of the Late YVONNE LOOTS dated 1 March 2010.
2. JOHN LOOTS
(Born on 11 March 1995)
A mental patient.

3. ADAM LOOTS
(Born on 12 November 1991)
Identity Number 910912 5054 08 1
Unmarried

The heirs, Executors administrators or assigns

½ (ONE HALF) share in and to
Erf 35 Douglasville Township
Registration Division JQ., North West Province
MEASURING: 2000 (TWO THOUSAND) square Metres

(10)

QUESTION 8

[19]

8.1

Erf 100 Iringa Township Registration Division.....; Province.....
Measuring.....

As will appear from General Plan S.G. No. 5601/2019 and held by Certificate of registered Title No. T8000/2019. (4)

8.2

First transferred and still held by Deed of Transfer No. T 8269/2020 with General Plan S.G. No. 5601/2019 relating thereto. (3)

8.3

First transferred by Deed of Transfer No. T 8269/2020 with General Plan S.G. No. 5601/2019 relating thereto and held by Deed of Transfer..... (4)

8.4

As will appear from Subdivisional Diagram S.G. No. 50/2021 and held by Deed of Transfer T 12/2021. (4)

8.5

First transferred by Deed of Transfer No. T 8269/2020 with Diagram S.G. No. relating thereto and held by Deed of Transfer T 12/2021.
(note to examiners: With the approval of the subdivisional diagram for portion 1, the SG will now have framed a parent diagram for the erf compiled from the general plan and it will have a new number.) (4)

QUESTION 9

[2]

Insert the correct Identity Number of Black Beard on the regulation 68(1) Application.

Lodge a section 4(1)(b) Application and Affidavit in order to rectify the error as No1 in the batch of two deeds.

TOTAL: [200]



LAW SOCIETY
OF SOUTH AFRICA