

**CONVEYANCING
PART 1
SEPTEMBER 2015**

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 developments. 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.

QUESTION 1.1

PREPARED BY ME

CONVEYANCER

FULL NAMES

**APPLICATION FOR AN ENDORSEMENT IN TERMS OF
SECTION 45 (bis) (IA) (a)
OF ACT 47 OF 1937**

We, the undersigned,

**JOHN SMITH
Identity Number 401021 5142087
unmarried**

QUESTION 2.1

PREPARED BY ME

CONVEYANCER

FULL NAMES

POWER OF ATTORNEY TO TRANSFER

I, the undersigned,

JOHN JOHNS

nominee of Best Bank Limited 89/001284/06, in my capacity as trustee of the

BHEKI KHUMALO TESTAMENTARY TRUST

MT 123/2012

duly authorised hereto by letters of authorization issued by the Master of the High Court, Pretoria on 20 October 2012 do hereby appoint;

PETER SMITH

with power of substitution to be my lawful attorney and agent to appear before the Registrar of Deeds at Pretoria and thereto declare that:

WHEREAS in terms of the Will dated 2 December 1998 of the late Bheki Khumalo who died at Johannesburg on 6 December 2011, the testator bequeathed her estate to her trustees in trust;

AND WHEREAS the undermentioned transferee is entitled to the undermentioned property in terms of the Trust created in the said Will, subject to the condition of the Will that the said property shall not form part of any community of property, more fully described hereunder;

NOW THEREFORE I hereby authorise the appearer to transfer to

ZONDI KHUMALO

Identity Number 931220 5123 08 6

unmarried

the following property, namely:

Erf 122 Cornwall Township, Registration Division I R, Province Gauteng

Measuring 400 (four hundred) square metres

Held by Deed of Transfer T81951/1989

(Candidates in provinces other than Gauteng please comply re property description)

Subject to the following condition set out in the Will of the said late Bheki Khumalo:

“It is a condition of inheritances bequeathed in terms hereof that they shall be excluded from community of property or profit and loss in respect of marriages subsisting between a beneficiary and his or her present spouse”

and generally for effecting the purposes aforesaid, to do or cause to be done whatsoever shall be requested, as fully and effectually as I could have done if personally present and acting herein.

SIGNED at JOHANNESBURG on this the day of MAY 2015.

AS WITNESSES

1. _____

2. _____

QUESTION 2.2

SUPPORTING DOCUMENTS

- (a) Existing Deed
- (b) New draft deed
- (c) Power of Attorney
- (d) Rates Clearance Certificate

- (e) Copy of Will -refer to as this was lodged with previous transaction
- (f) No transfer duty is payable - lodge exemption
- (g) Bonds for disposal

QUESTION 2.3

No. S 42(1) and S 42(2) Act 66/65 do not apply - S 40 endorsement already effected.

QUESTION 2.4

Identity document of Zondi; affidavit regarding solvency and marital status; nomination of John Johns by Best Bank (resolution); resolution by trustee authorising termination of trust and transfer; letters of appointment of trustee; copies of will incorporating trust; solvency affidavit of trust.

QUESTION 3

SPECIAL CONDITION

1. This agreement is subject to the suspensive condition that the purchaser's property known as Erf 1003 Heatherton (hereinafter referred to as "the second property") is sold for not less than R1 750 000 (one million seven hundred and fifty thousand rand) before or on 10 January 2016. This condition shall be deemed to be fulfilled when the:
 - 1.1 Full purchase price in respect of the second property has been secured by guarantees or cash, such guarantees to be conditional only upon registration of transfer of the second property, bond cancellation and bond registration relating thereto;
 - 1.2 Transfer costs and transfer duty in respect of the second property shall have been paid to the relevant transferring attorneys.
2. It is agreed that transfer of the property and the second property shall be registered simultaneously, together with the necessary simultaneous transactions.

QUESTION 4.1

PREPARED BY ME
CONVEYANCER
Full names

APPLICATION UNDER SECTION 22(1) OF THE SECTIONAL TITLES ACT 1986

I, the undersigned,

ROBERT HOPEWELL

duly authorised hereto by resolution of the members of

BOBWELL CC, No CK 86/12678/23

do hereby apply to the Registrar of Deeds at Johannesburg for:

1. The registration of the attached sectional plan of subdivision of a section in terms of the provisions of Section 22(1) of the Sectional Titles Act 1986, in respect of Section Numbers 21 and 22 (formerly Section No 11) as shown and more fully described on Sectional Plan No SS 315/1990 in the scheme known as Mountain View in respect of the land and building or buildings situate at Mountain Top Township, Local authority of Poggenspoelville and held under Deed of Transfer No ST 4321/1993.
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 JOHANNESBURG on 5 May 2015.

QUESTION 4.2

PREPARED BY ME
CONVEYANCER
FULL NAMES

**CONSENT OF BONDHOLDER IN TERMS OF SECTION 22(2)(c) OF THE SECTIONAL
TITLES ACT 95 OF 1986**

I, the undersigned

JOHN TOMS

duly authorised thereto by of a resolution of the directors of

URBAN BANK LIMITED NO 86/12878/07

the legal holder of the undermentioned bond, namely:

MORTGAGE BOND NO SB 3210/1993

Passed by BOBWELL CC CK 86/12678/23

In favour of URBAN BANK LIMITED NO 86/12878/07

For the sum of R1 750 000,00 (one million seven hundred and fifty thousand rand)

do hereby consent to:

1. the registration of a sectional plan of subdivision in respect of Section Numbers 21 and 22 (formerly Section No 11) as shown and more fully described on Sectional Plan No SS 315/1990 in the scheme known as Mountain View;
2. substitution of the new sections namely section 21 and 22 in lieu of section 11 as security under the bond;
3. the issue of certificates of registered sectional title in respect of section numbers 21 and 22 as described aforesaid.

DATED at JOHANNESBURG on this the 5th day of MAY 2015.

LAW SOCIETY OF SOUTH AFRICA
LEGAL EDUCATION AND DEVELOPMENT [L.E.A.D.]™

WITNESSES:

1. _____

2. _____

QUESTION 5

PREPARED BY ME
CONVEYANCER
FULL NAMES

SURETY BOND

Known all men whom it may concern:

That Joe Conveyancer appeared before me, the Registrar of Deeds at Johannesburg, he being duly authorised thereto by a Power of Attorney dated at Johannesburg on 1 May 2015 and granted to him by

NEIL SCROOBY

Identity Number 420521 0131 087

married out of community of property

(hereinafter called "the Mortgagor")

which Power of Attorney has this day been exhibited to me;

And the Appearer declared that;

WHEREAS

SCROOBY (PROPRIETARY) LIMITED

90/00452/06

(hereinafter called the "principal debtor")

is truly and lawfully indebted in the sum of R5 500 000,00 (five million five hundred thousand rand) to

SETTLERS BANK LIMITED 84/12310/07
(hereinafter referred to as "the Mortgagee")

arising from the issue of performances guarantees by the Mortgagee in respect of certain work to be performed by the principal debtor, for which indebtedness the Mortgagee requires indemnification against any claim arising from such performance guarantees;

AND WHEREAS the principal debtor granted a written indemnity dated 20 February 2015 as required by the Mortgagee, and whereas the Mortgagee requires the Mortgagor to bind himself as surety and co-principal debtor for the obligations of the principal debtor under the said indemnity;

AND WHEREAS the Mortgagor has agreed to bind himself as surety and co-principal debtor for the compliance by the company with all the terms and conditions of the aforesaid indemnity, as herein specified;

NOW THEREFORE, the appearer declared his principal, the said Mortgagor, to be held and firmly bound to and on behalf of the Mortgagee in the sum of R5 400 000 (five million four hundred thousand rand) arising from the considerations aforementioned, under renunciation of the legal exceptions, *beneficium ordinis seu excussionis* with the force and effect whereof he declared his principal to be fully acquainted.

And as security for the due fulfilment of the Mortgagor's obligations under this bond, the mortgagor hereby binds as a **second mortgage**:

ERF 1537 Hopewell Township, Registration Division I R, Province of Gauteng
Measuring 5 000 (Five thousand) square metres

Held under Deed of Transfer 1234/1980

subject to the conditions therein contained and subject to the following conditions:

- (1) This bond shall in no way interfere with, prejudice or affect the rights and preference of the LEKKERVET BANK LIMITED (No 86/01234/06) (hereinafter referred to as "the Bank") under its prior ranking mortgage bond which rights and preference shall remain in all respect as if this bond had not been passed;
- (2) the Mortgagee may not cause the property to be attached in execution of a judgment, nor may it sequestrate or liquidate the Mortgagor or place the Mortgagor under judicial management, as the case may be, without first having obtained the Bank's consent in

writing thereto; the Bank may exercise the right granted it under its prior bond to make further advances to the Mortgagor;

- (3) the Mortgagee shall not cede or assign this bond without the written consent of the Bank; unless the Bank otherwise agrees this bond shall be handed to and retained by the Bank until this bond or the bond in favour of the Bank is cancelled.

And the appearer q.q. declared it to be a special condition of this bond that, should the principal debtor fulfil all its obligations by payment of all sums due by way of capital and interest and comply further with all its obligations, this bond shall become null and void.

In witness whereof I, the said Registrar, together with the appearer, have subscribed to these presents, and have caused the seal of office to be affixed thereto.

Thus done and executed at the Office of the Registrar of Deeds Johannesburg on this day
of 2015.

Appearer q.q.

In my presence

Registrar of Deeds

(Note: The above merely serves as an example. Candidates must show insight in their answers).

QUESTION 6

6.1 The Transferee shall not sell the property without first offering same in writing to the transferor and the transferor shall have not less than 48 hours to accept or reject such offer.

6.2 Subject to a servitude in favour of the Transferor, in his capacity as the owner of Erf 1234 Seaview, and his successors in title or assigns to the effect that any building erected on the property hereby transferred shall be no higher than a single storey building (the term "single storey" to have its usual interpretation) and the transferee shall furthermore be prohibited from erecting any building or structure on the

forementioned property which will encroach on the view enjoyed by Erf 1234 Seaview over the ocean.

- 6.3 Subject to a right of way 3 metres wide along the southern boundary of the property hereby transferred, which boundary is indicated by the line ABCD on Diagram S.G. 11/94, in favour of Erf 101 Sunset View, Held by Deed of Transfer T32123/1991.

QUESTION 7

PREPARED BY ME
CONVEYANCER
FULL NAMES

SPECIAL POWER OF ATTORNEY

I, the undersigned

JOHN SMITH

Identity number 540605 5054 08 1

unmarried

in my capacity as owner of a 1/2 share the undermentioned property and in my capacity as the executor of the estate of the late Irene Smith, acting under and by virtue of letters of executorship No 2545/2014, issued by the Master of the High Court at Pretoria on 2 June 2014 hereby nominate, constitute and appoint

SAM SMITH

Identity number 521201 5203 08 0

unmarried

with power of substitution to be my lawful attorney and agent in my power, place and stead, and on my behalf:

1. To market and sell

Erf 100 Arcadia Registration Division I R Province Gauteng

measuring 1000 (One thousand) square metres

Held by Deed of Transfer T49194/1983

for a purchase price of not less than R2 150 000,00 (two million one hundred and fifty thousand rand) which price shall include agent's commission, and to sign a Deed of Sale and any ancillary documents on my behalf.

2. To do all things and sign all documents as may thereafter be necessary or desirable to discharge my obligations, arising from such sale and, without prejudice to generality, to sign such documents and to do all things as may be necessary or desirable to pass transfer of the property to its purchaser by registration in the appropriate Deeds Registry, and to appoint a conveyancer or conveyancers to pass transfer of the property on my behalf.
3. To receive the net proceeds of such sale and to hold same for my account in my capacity aforementioned.

And generally for affecting the purposes aforesaid, to do whatsoever shall be requested, as fully and effectually, for all intents and purposes, as I might or could do if personally present and acting herein - hereby ratifying, allowing and confirming and promising to ratify, allow and confirm all and whatsoever my said attorney and agent shall lawfully do, cause to be done, by virtue of these presents.

Signed at Johannesburg on this 5th day of May 2015.

AS WITNESSES:

1. _____
2. _____

QUESTION 8

PREPARED BY ME
CONVEYANCER
FULL NAMES

APPLICATION IN TERMS OF SECTION 37 OF ACT 47 OF 1937

I, the undersigned

PETER LOUW
IDENTITY NUMBER
Unmarried

do hereby apply to the Registrar of Deeds Johannesburg in terms of Section 37(1) of the Deeds Registries Act 47 of 1937 for the issue of a Certificate of Registered Title to me in terms of section 35 in respect of:

A 5/8 share in and to Erf 144 Elandsfontein, Registration Division IR, Province of Gauteng;

Measuring 170 (one thousand seven hundred) square metres;

Held by Deed of Transfer 123/2001 (as to a 1/4 share), Deed of Transfer T125/2003 (as to a 1/4 share) Deed of Transfer T 126/2003 (as to a 1/8 share).

Dated at Johannesburg on this the 5th day of May 2015.

APPLICANT

QUESTION 9.1

Erf 444 Summerton Township, Registration Division I R, Province of Gauteng;

Measuring 496 (four hundred and ninety six) square metres;

Held by Deed of Transfer T7739/2013;

Subject to the conditions contained therein and specially subject to Notarial Deed of Lease No K319/2014L, preference in respect of which has been waived as hereinafter more fully set out.

QUESTION 9.2

Prepared by me
CONVEYANCER
FULL NAMES

WAIVER OF PREFERENCE

We, the undersigned,

JOHN HAMPSHIRE

Identity Number 630205 5036 08 6

AND

JOAN HAMPSHIRE Identity Number 640313 5044088
MARRIED IN COMMUNITY OF PROPERTY TO EACH OTHER

in our capacity as the lessee in terms of a registered lease Number K319/2014 over:

ERF 444 SUMMERTON TOWNSHIP REGISTRATION DIVISION I.R. Province of Gauteng;

MEASURING: 496 (FOUR HUNDRED AND NINETY SIX) Square Metres;

HELD under Deed of Transfer Number T7739/2013

DO HEREBY WAIVE PREFERENCE in respect of the aforementioned lease in favour of a Mortgage Bond about to be registered by the said:

GRAHAM SMITH
Identity Number 560525 5033 08 6
MARRIED OUT OF COMMUNITY OF PROPERTY

in favour of **BEST BANK LIMITED** for the sum of R1 000 000,00 (ONE MILLION RAND) plus an additional sum of R200 000,00 (TWO HUNDRED THOUSAND RAND) operating as a continuing covering security so that such bond in favour of BEST BANK LIMITED shall be preferent and rank prior in every respect of the abovementioned lease No K319/2014.

DATED AT JOHANNESBURG this day of 2015.

AS WITNESSES:

1. _____
2. _____

QUESTION 10**STATEMENT OF ACCOUNT – SELLER**

Description	VAT	Debit	Credit
By Purchase Price			R1 000 000.00
To Paid Agents Commission		R50 000.00	
To Paid Cancellation Costs		R3 500.00	
To Paid Expert Wiring		R1 500.00	
To Paid Pest Wizard		R1 000.00	
To Paid Miracle Bank		R450 000.00	
To Paid Heartless Bank		R1 200.00	
To Paid Realty Estate - Valuation Fee		R1 500.00	
To Our Fee for Endorsing Power of Attorney		R800.00	
To Paid Rates & Taxes - Pro-Rata (June, July, August)		R3 750.00	
To Paid Levies (July, August)		R1 600.00	
To Paid Mandla Contractors		R25 000.00	
To Amount Awarded to Heir - Rahul		R230 075.00	
To Amount Awarded to Heir - Meera		R230 075.00	
Subtotal		R1 000 000.00	R1 000 000.00
VAT			
Total		R1 000 000.00	R1 000 000.00
		R1 000 000.00	R1 000 000.00

STATEMENT OF ACCOUNT - PURCHASER

Description	VAT	Debit	Credit
By Bond			R500 000.00
By Cash			R200 000.00
By Proceeds from Sale of Property			R400 000.00
By Interest			R2 200.00
To Paid Purchase Price		R1 000 000.00	
To Paid Transfer Costs and Disbursements		R34 538.76	
To Our Fee for Drawing Acknowledgement of Debt		R550.00	
By Your Share of Rates (September - December)		R5 000.00	
By Your Share of Levies		R800.00	
To Rates Refund			R3 000.00
To Levy Refund			R1 500.00
Subtotal		R1 040 888.76	R1 106 700.00
VAT			
Total		R1 040 888.76	R1 106 700.00
Due to you		R65 811.24	
		R1 106 700.00	R1 106 700.00