

**CONVEYANCING
PAPER 1
APRIL 2019

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 ONE

Transfer duty calculation

UP TO	R 900 000.00	Exempt	
FROM	R 900 001 TO R1 250 000.00	3%	R 10 500.00
FROM	R1 250 001 TO R1 750 000.00	6%	R 30 000.00
FROM	R1 750 001 TO R2 250 000.00	8%	R 40 000.00
FROM	R2 250 001 TO R4 500 000.00	11%	R247 500.00
			<u>R328 000.00</u>

Statement of account - Seller PEN PAUPER**PROPERTY: ERF 2 KRYPTON TOWNSHIP**

BY	:	Purchase price		R4 500 000.00
TO	:	Paid Agents commission	R 175 000.00	
TO	:	Your share of rates (1 December 2017-30 April 2018)	R 20 000.00	
TO	:	Paid cancellation costs	R 2 050.00	
TO	:	Paid McCarthy Motors	R 190 000.00	
TO	:	Paid Sleezy Bank	R1 450 000.00	
TO	:	Contribution to sellers cost	R 20 000.00	
BY	:	Occupational rental (1 February – 30 April 2018)		R135 000.00
BALANCE CHEQUE HEREWITH			R2 777 950.00	
			<u>R4 635 000.00</u>	<u>R4 635 000.00</u>

Statement of Account - Purchaser – RICHIE RICH**PROPERTY: ERF 2 KRYTON TOWNSHIP**

BY	:	Deposit and Costs		R1 300 000.00
BY	:	Bond		R3 200 000.00
BY	:	Interest on deposit		R 17 500.00
BY	:	Contribution to costs		R 20 000.00
TO	:	Transfer fees	R 113 680.00	
TO	:	Deeds fee – Transfer	R 1 750.00	
TO	:	Bond registration fee	R 80 664.00	
TO	:	Deeds fee – Bond	R 1 465.00	
TO	:	Postages and Petties - Transfer	R 750.00	
TO	:	Postages and Petties – Bond	R 750.00	
TO	:	Rates Application fee	R 350.00	
TO	:	Your share of rates (1 May – 31 May 2018)	R 4 000.00	

TO	:	Occupational Rental (1 February – 30 April 2018)	R 135 000.00	
TO	:	Paid Transfer Duty	R 328 000.00	
TO	:	Paid Purchase Price	R4 500 000.00	
BALANCE DUE BY YOU				R 628 909.00
			<hr/>	<hr/>
			<u>R5 166 409.00</u>	<u>R5 166 409.00</u>

QUESTION TWO

- a) This agreement is subject to the suspensive condition that the Purchaser is successful in selling another property of his, within 90 days of signature of this agreement, being Erf 12 Putfontein Township for a purchase price of not less than R 1 900 000.00 (One Million Nine Hundred Thousand Rand). The Purchaser shall have in his sole and absolute discretion the choice to accept a lower purchase price for such property in which event this condition shall be deemed to be fulfilled.
- b) The sale of the Purchaser's property shall not, in turn, be subject to the sale of any other properties or any other suspensive conditions other than those relating to the mortgage bond financing of the Purchaser's purchase. These suspensive conditions relating to mortgage finance in the agreement of sale relating to the property in paragraph (a) above, must be fulfilled by no later than 28 days after signature thereof.
- c) The Purchaser shall, within 5 (five) days of the sale of the property referred to in paragraph (a) above, provide the Seller with a copy of such agreement.
- d) Transfer of the Purchaser's property mentioned in paragraph (a) and the property sold in terms of this agreement shall be registered simultaneously.

QUESTION 3.1

And the Appearer declared that:

Whereas the undermentioned property is registered in the names of Jack Sithole and Jill Sithole, married in community of property to each other;

AND Whereas Jack Sithole died on the 3rd March 2017 and in terms of his Last Will and Testament of dated 8th November 2011 and signed at Polokwane, the testator bequeathed his share in the immovable properties to his two children, Larry Sithole and Mavis Dlamini, subject to the exclusion of community of property as more fully set out;

AND Whereas Larry Sithole and Mavis Dlamini have entered into a Redistribution agreement dated 30th July 2017 in terms of which Mavis Dlamini is entitled to the within mentioned property;

NOW, THEREFORE, the Appearer in her capacity aforesaid, did by these presents, cede and transfer, in full and free property, to and on behalf of

Mavis Dlamini

Identity Number: 600723 0218 08 2

Married in community of property to David Dlamini

(which community of property is excluded by Condition of the Will)

A one-half share in and to

(a) Section 5 as shown and more fully described on Sectional Plan SS 123/1999 in the scheme known as Waldorff in respect of the land and building or buildings situate at Durban, Ethekewini Municipality,

(b)

Held by Deed of Transfer ST 546/2015

QUESTION 3.2

- a) Draft Deed
- b) Holding deed
- c) Power of Attorney to Transfer
- d) Rates clearance certificate
- e) Transfer Duty Exemption certificate
- f) Section 42(1) certificate by the Conveyancer
- g) Certified copy of the Last Will, accepted by the Master of the High Court
- h) Certified copy of the Redistribution Agreement, accepted by the Master of the High Court
- i) Conveyancer's certificate in terms of Section 15 (B)(3)(a) of the Sectional Titles Act

QUESTION 3.3

Wherefore the appearer, renouncing all the right, title and interest which the said Joint Estate of the Late Jack Sithole, Estate Number 5413/2018 and surviving spouse Jill Sithole heretofore had to the unit aforesaid, acknowledge that the transferors are entirely dispossessed of, and disentitled to the same and that by virtue of these presents the aforesaid transferee now is entitled thereto, the State, however, reserving its rights.

QUESTION 4**ADIATION CERTIFICATE¹**

I, the undersigned:

MARY JONES

Identity Number: 371031 0061 081

Unmarried

¹ **NOTE: As the surviving spouse is not obtaining a limited interest, candidates could also draft an election certificate in lieu of the adiation certificate.**

Do hereby make oath and say: -

1. I was married in Community of Property to the Late John Jones at Durban on the 11th May 1978.
2. The said Late John Jones and I executed a Joint Will and Testament signed at Bloemfontein on the 10th March 2007 which provided that our respective Estates were to be massed and dealt with as detailed therein.
3. The said John Jones died on the 20th March 2017.
4. No further Last Will and Testament was executed either by me or the said Late John Jones.
5. I understand that I have the option to adiate under the said Joint Will or to repudiate the terms thereof.
6. I further understand that the decision to adiate once expressed is irrevocable.
7. With full knowledge of the implications of adiation which I declare have been explained to me, I hereby expressly adiate under the said Will.

DEPONENT

I HEREBY CERTIFY that the Deponent has acknowledged that she knows and understands the contents of this Affidavit which was sworn to and signed before me at Pietermaritzburg on this 10th day of April 2019, the regulations in terms of Section 10 of Act 16 of 1963 as read with Regulations published under Government Notice R1255 Gazette No. 3619 dated the 21st July 1972 having been fulfilled before me.

Commissioner of Oaths

QUESTION 5.1

We, the undersigned

1. Ann Penn
Identity Number 710701 0017 08 8
Unmarried
and
2. Mavis Ball
Identity Number 770107 0012 08 3
Unmarried / Divorced²

QUESTION 5.2

The joint estate of the late Mad Max, and his surviving spouse, Cecilia Max Identity Number 630615 0910 00 8, Unmarried

QUESTION 5.3

Portion 1 of Erf 12 Douglasdale

In the Municipality and Division of Douglasdale, Province of the Western Cape³

In extent 800 (Eight Hundred) Square Metres

As will appear from the annexed diagram SG No. 3/2006 and held by Deed of Transfer No. T 1 of 2005.

² **NOTE: Both unmarried or divorced are correct**

³ **NOTE: Provide description is as per the Province where the candidate writes.**

QUESTION 5.4

PREPARED BY ME

CONVEYANVER

ALLEN OTHER

POWER OF ATTORNEY AND AGREEMENT OF PARTITION

We, the undersigned

1. Ann Penn
Identity Number 710701 0017 08 8
Unmarried

and

2. Mavis Ball
Identity Number 770107 0012 08 3
Unmarried

Being the joint owners of

REMAINDER ERF 12 DOUGLASDALE
IN THE MUNICIPALITY AND DIVISION OF DOUGLASDALE⁴
PROVINCE OF THE WESTERN CAPE,
MEASURING 1200 (ONE THOUSAND TWO HUNDRED) SQUARE METRES
HELD BY DEED OF TRANSFER No. T1 of 2005

⁴ **NOTE: Provide description is as per the Province where the candidate writes.**

Held by us as follows:

<p>1. Ann Penn Identity Number 710701 0017 08 8 Unmarried</p>	<p>½ share</p>
<p>2. Mavis Ball Identity Number 770107 0012 08 3 Unmarried</p>	<p>½ share</p>

HELD BY DEED TRANSFER No. T1 of 2005

Hereby declare that we hereby agree to partition the said land by sub-dividing the same according to our respective interest therein and to receive transfer in severalty of the sub-divided portion hereinafter set out

And we do hereby nominate and appoint ANDREW BOWLER DEEDS and/or JOHN PARTNER with power of substitution to be our true and lawful attorney and agent and to appear before the Registrar of Deeds at Cape Town and then and there as our act and deed to pass transfer of the sub-divided portions to us in severalty as follows:

Allocated to:

1. Mavis Ball
Identity Number 770107 0012 08 3
Unmarried

PORTION 2 OF ERF 12 DOUGLASDALE
IN THE MUNICIPALITY AND DIVISION OF DOUGLASDALE
PROVINCE OF THE WESTERN CAPE
MEASURING 600 (SIX HUNDRED) SQUARE METRES
AS SHOWN ON DIAGRAM SG No. 4 of 2006

QUESTION 6.1

PREPARED BY ME

CONVEYANCER
ALLEN OTHER

POWER OF ATTORNEY TO PASS TRANSFER

We, the undersigned

1. KOOS BEKKER
Identity Number 650110 5111 088
Married in community of property to MARIE BEKKER

and

2. WILLEM STEENKAMP
Identity Number 600221 0007 082
Married in community of property to ENGELA STEENKAMP

and

3. SONIA DU PLOOY (Previously BOTES)
Identity Number 700108 0012 083
Unmarried

Carrying on business in Partnership as Bekker and Associates

do hereby nominate and appoint Andrew Bowler Deeds and/or John Partner

with power of substitution to be my true and lawful Attorney and Agent in my name, place and stead to appear at the Office of the REGISTRAR OF DEEDS at CAPE TOWN or any other competent official in the Republic of South Africa and then and there to act as my Attorney and Agent and to pass transfer to:

1. WILLEM STEENKAMP
Identity Number 600221 0007 082
Married in community of property to ENGELA STEENKAMP

2. SONIA DU PLOOY
Identity Number 700108 0012 083
Unmarried

Carrying on business in Partnership as Steenkamp and Du Plooy Stationers

the property described as:

Erf 358 Claremont
In the City of Cape Town
Cape Division
Province of the Western Cape⁵
In extent 845 (Eight Hundred and Forty-Five) Square Metres
HELD BY Deed of Transfer No. T5438 of2015

the said property having been acquired by the transferees in terms of an agreement entered into at Cape Town on 23 January 2018 whereby Koos Bekker retired from the transferor- partnership and his share was taken over by the transferee-partnership, the property being valued for the sum of R1 600 000,00 (One Million Six Hundred Thousand Rand);

and further cede and transfer the said property in full and free property to the said Transferee; to renounce all right, title and interest which the Transferor heretofore had in and to the said property, and generally, for effecting the purposes aforesaid, to do or cause to be done whatsoever shall be requisite, as fully and effectually, to all intents and purposes, as the Transferor might or could do if personally

⁵ **NOTE: AGAIN, CANDIDATES MAY USE PROPERTY DESCRIPTIONS OF THE PROVINCE WHERE THEY WRITE THE EXAM**

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present and acting therein; hereby ratifying, allowing and confirming all and whatsoever the said Agent/s shall lawfully do or cause to be done in the premises by virtue of these presents.

Signed at Cape Town on this _____ day of April 2019, in the presence of the undersigned witnesses:

AS WITNESSES:

1. _____

2. _____ KOOS BEKKER

WILLEM STEENKAMP

SONIA DU PLOOY

QUESTION 6.2

The provisions of section 24bis(2) of the Deeds Registries Act, 47 of 1937 finds application.

This provides that when a partnership is terminated by agreement or for any reason or through death of one of the partners, as regards any land or real right registered in the name of the partnership which in terms of the dissolution is awarded to all the members of the partnership, the title deed may be endorsed, on compliance with the said section, to the effect that such land or real right vests in the individuals therein named; and thereupon 'such persons shall be entitled to deal therewith as if they had taken formal transfer or cession in their names of their shares in such land or real right'.

A written application must be lodged setting out the full facts of the partnership and its dissolution and signed by all the members or partners. This must be accompanied by proof of the dissolution. The application must bear a preparation certificate.

QUESTION 6.3

The provisions of section 24*bis*(3) of the Deeds Registries Act, 47 of 1937 finds application.

This provides that the endorsement in terms of Section 24*bis*(2) of the Deeds Registries Act, 47 of 1937 cannot be made if the land or real right is mortgaged unless such bond is cancelled or the holder thereof consents in writing to the substitution of the individual members or partners as debtors under the bond.

Such substitution shall not be allowed unless: -

- (i) the individual members or partners apply in writing to be substituted, jointly and severally, as debtors under the bond; and
- (ii) the individual members or partners are competent to mortgage the land; and
- (iii) where applicable, the individual members or partners renounce in the said application the exception *de duobus vel pluribus reis de debendi*.

QUESTION 7

PREPARED BY ME

CONVEYANCER
ALLEN OTHER

**AGREEMENT TO VARY THE TERMS OF A BOND IN TERMS OF SECTION 3(1)(s)
OF THE DEEDS REGISTRIES ACT, 1937 (ACT 47 OF 1937)**

We, the undersigned,

Dick Sloan

Identity number 600312 5008 087

and

Mary Sloan

Identity number 621020 0209 080

Married in community of property to each other

the mortgagor,

and

James Miller

Identity number 700517 5124 088

Married out of community of property

the legal holder of Bond No. B29115/2016

for the sum of R100 000,00 (One Hundred Thousand Rand)

do hereby agree that the terms of the said bond shall be varied as follows:

1. That the repayment date of the capital sum is extended from 30 June 2021 to 30 June 2026; and
2. That the rate at which the capital sum bears interest as well as the payment of the interest is increased and amended, respectively, with effect from 1 July 2018 from 8% per annum payable annually in arrears on 30 June every year to 10% per annum payable half- yearly in arrears, the first payment to be made on 1 January 2019.

Dated at Pretoria on this 10th day of April 2019.

Witnesses:

1. _____
 2. _____
- Mortgagor

Dated at Pretoria on this 10th day of April 2019.

Witnesses:

1. _____
 2. _____
- Legal holder

QUESTION 8

Prepared by me

CONVEYANCER

Full names and surname

**APPLICATION IN TERMS OF SECTION 25(3)
OF THE DEEDS REGISTRIES ACT 47 OF 1937**

I, the undersigned,

Yuri Nong

In my capacity as mother and natural guardian of

Fernanda Nong

Identity number 190220 0062 084

Minor

Do hereby apply in terms of section 25(3) of the Deeds Registries Act, 47 of 1937 to the Registrar of Deeds at Pretoria for the endorsement of Deed of Transfer No. T1234/2008 under which is held:

Erf 234 Menlo Park Township

Registration Division J.R

Gauteng Province

In extent: 700 (seven hundred) square meters

Whereas the property was registered in trust for the child to be born, and whereas the child was born on 20 February 2019.

Now therefore I apply for an endorsement to be made on the above-mentioned title deed to the effect that the said Fernanda Nong, Identity number 190220 0062 08, minor, is entitled to deal with the aforesaid property as if she had formally received transfer thereof.

Signed at Pretoria on this 10th day of April 2019.

Y NONG

QUESTION 9

The procedure to be adopted is as set out in Regulation 68(11B) and (11C) and is as follows:

1. The registered holder of a mortgage, or his duly authorised agent, who desires to procure cancellation of such bond which has been lost or destroyed and of which the registry duplicates has also been lost or destroyed, must at his own expense publish a notice of intention to apply for the cancellation of the registration of such bond, in two consecutive ordinary issues of the Government Gazette.
2. All interested persons will then have an opportunity to raise an objection to the Registrar of Deeds, should they wish to do so, within a period of 6 (six) weeks after the date of the first publication of the notice in the Gazette.
3. After expiry of the 6 (six) week period, the registered holder of the bond, or his duly authorised agent, may lodge with the Registrar, within a further period of 6 (six) weeks, a consent to cancellation of the registration of the relevant bond.
4. Should the Registrar be satisfied with the application, he / she shall endorse such consent to indicate the cancellation of the bond and the endorsed consent shall be deemed to be a cancellation of the bond notwithstanding that the original or registration duplicate of the bond was not submitted for cancellation.

Relevant application to be brought – is therefore in terms of Regulation 68(11C).

Prepared by me

CONVEYANCER

Full names and Surname

**APPLICATION AND AFFIDAVIT
IN TERMS OF REGULATION 68(11C) OF THE DEEDS REGISTRIES ACT, 1937**

We, the undersigned,

HARVEY SPECTER

and

LOUIS LITT

Duly authorised hereto by

PREFERRED BANK LIMITED

Registration Number: 1951/000009/06

(Hereinafter referred to as the BANK)

duly authorized by virtue of a Resolution the legal holder of the undermentioned bond, namely

Mortgage Bond Number **B12345/1999**

Passed by

DONALEE PEARSON

IDENTITY NUMBER: 910507 0062 080

UNMARRIED

in favour of

PREFERRED BANK LIMITED

Registration Number: 1951/000009/06

for the sum of

R800 000.00 (Eight Hundred Thousand Rand)

do hereby state under oath that:

1. The said Bond and Deed of Transfer T12345/2007 were retained by the BANK as security for a loan to the abovementioned mortgagor.

2. The said bond and title deed were unfortunately lost or destroyed in the offices of the BANK and despite diligent search cannot be found. The circumstances of how the bond and deed came to be lost is not known.
3. The Deeds Office copy of the bond is also lost or destroyed under circumstances unknown.
4. All amounts owing under the said bond provision for repayment has been made to the satisfaction of the BANK.
5. The said bond is not now being retained as security nor has it been pledged to any person by the BANK.
6. The provisions of Regulation 68 (11B) (a) and (b) have been complied with in that:
 - 6.1 The Bank as Holder of the Mortgage Bond published a Notice of Intention to apply for the cancellation of the registration of the Mortgage Bond in two consecutive issues of the Gazette, namely 9 March 2018 and 23 March 2018, attached hereto.
 - 6.2 The period of 6 (six) weeks after the 9th day of March 2018 being the date of the first publication of the said Notice in the Gazette has lapsed and to the best of our knowledge and belief, no objection to the cancellation of the registration of the said Mortgage Bond has been lodged with the Registrar at the Deeds Registry in Pretoria.

Accordingly, we apply for and consent to the cancellation of the above bond in terms of Regulation 68(11C) of the Deeds Registries Act 47 of 1937 and request the Registrar of Deeds in Pretoria to endorse this application for the cancellation of the aforesaid bond in view of the fact that both the clients' copy and Deeds Office copy is lost.

Dated at JOHANNESBURG this 9th day of April 2019.

H SPECTER

L LITT

Witnesses:

1. _____

2. _____

I certify that the Deponent has acknowledged that he knows and understands the contents of this Affidavit which was sworn to and signed before met at JOHANNESBURG on this the _____ day of April 2019 and that the provisions of the regulations contained in Government Notice R1258 of 21 July 1972 and R1648 of 19 August 1977 (as amended) have been complied with.

Commissioner of Oaths

QUESTION 10.1

Prepared by me

CONVEYANCER

Full names and Surname

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DEED OF TRANSFER
(By virtue of Section 33 of the Deeds Registries Act, No. 47 of 1937)

BE IT HEREBY MADE KNOWN

That in obedience to an Order of the High Court of South Africa, Western Cape Division, Cape Town dated 5 March 2017, I, the Registrar of Deeds at Cape Town by virtue thereof, cede and transfer in full and free property to and on behalf of

JOHN LAMONT
Identity Number 590321 0062 084
Unmarried
His heirs, executors, administrators, or assigns, certain

Erf 230 Langebaan Township
Registration Division, J.R.,
Gauteng Province
Measuring 450 (four hundred and fifty) square metres

First transferred and still held by Deed of Transfer T1234/1970 with diagram SG No _____ relating thereto.

QUESTION 10.2

1. Order of court – original or certified, unless filed at the Deeds Office;
2. Rates clearance certificates;
3. Transfer duty receipts (or exemption certificates);
4. Title deed if available, or an affidavit by the transferee that he is unable to obtain possession of the title deed;
5. Draft deed.
- 6.