



# THE UNIVERSITY OF THE WEST INDIES

EXAMINATIONS OF \_\_\_\_\_ JULY \_\_\_\_\_ 1999

CODE AND NAME OF COURSE: LA 27A - ADMINISTRATIVE LAW

DATE AND TIME:

DURATION: 2 hours

INSTRUCTIONS TO CANDIDATES: This paper has 3 pages and 6 questions.

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Answer **THREE** questions.

Answers may be confined to the law of any jurisdiction in the Commonwealth Caribbean unless the context indicates otherwise.

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1. "The law is now clear that where a person is adversely affected by a decision, he is entitled to a reason."  
  
Discuss.
2. "The courts have now advanced from a consideration of natural justice principles to considerations of fairness."  
  
Discuss.
3. "The ultra vires doctrine applies whenever any functionary exercises any statutory power."  
  
Discuss.
4. The Minister of Planning of Abenda, a Commonwealth Caribbean State, is given the power to compulsorily acquire lands for town and country development as he sees fit, "provided that such lands are not agricultural lands."

PLEASE TURN OVER

The Minister makes an order acquiring the land of Zamba, a farmer, in order to build houses for the town and country planning experts who were brought in to supervise the town and country development plan.

The Minister of Agriculture informs the Minister of Planning that his Ministry has a policy not to develop agricultural lands on the east coast on the ground that such development will be too expensive. On the advice of the Minister of Agriculture, the Ministry of Planning proceeds to acquire lands on the east coast.

Entrepreneur, the organisation which promotes the welfare of small businesses in Abenda, objects to the acquisition of the lands on the east coast on the grounds that there are no roads, infrastructure or business opportunities there.

Zamba and Entrepreneur wish to challenge the decision of the Minister of Planning.

Advise them.

5. Self-serving unlimited, is an unincorporated association which is regulated by rules drawn up by a Board of members of various societies. All of the societies trade on the Securities Exchange.

The Board has regulations issued for the guidance of its members. Regulation 4 reserves to the Board the power to amend and interpret the Regulations, and to modify or waive the application of the regulations in certain circumstances.

The Board also has power to investigate and report on alleged breaches of the Regulations, and to enforce compliance with them by threat of sanctions.

Kando Co. Ltd. Sleeze Co. Ltd. and Underminers Co. Ltd are members of the association. Kando Co. Ltd complains to the Board that the Directors of Sleeze Co. Ltd are in breach of the Regulations in that:

- (i) they have acted in collusion with the directors of Underminers Co. Ltd to purchase 51% of the shares in the said Underminers Co. Ltd at a price which is 40% below the true market value of the shares;
- (ii) the transaction was carried out without the knowledge or concurrence of the Board;

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- (iii) Kando Co. Ltd. has, by letter to the Directors of Underminers Co. Ltd. offered to pay the market price for the shares, prior to the transaction between Underminers Co. Ltd and Sleeze Co. Ltd.

The Board refuses to hear the complaint.

Advise Kando Co. Ltd.

6. The Taxi Licensing Act, 1947, empowers the Taxi Licensing Authority to issue, renew or revoke licences for the operation of Taxi Cabs.

Horatio is a Taxi Cab owner who has held a Licence to operate his Taxi for about sixteen years. During this time the Licence has been renewed annually. He applies for the renewal of the Licence for the year 1999 to 2000, but he is informed by a letter which he has received from the Authority that his Licence will not be renewed for that period. The letter has also suggested that he may make an application for the year 2001 to 2002.

In a letter to the Authority, Horatio has asked the Authority to explain its "unfair decision". The response of the Authority is that in its opinion there are too many Taxi Cabs in operation and it anticipates that there will be a decline in tourism during the period 1999 to 2000.

Horatio complains to the Taxi Association. Out of its concern for the Interests of its members, the Taxi Association wishes to challenge the decision by way of judicial review.

Advise the Chairman of that Association and Horatio who seek your advice.

END OF PAPER