



“Investing in Africa’s future”

COLLEGE OF BUSINESS, PEACE, LEADERSHIP & GOVERNANCE

MPM311: ADMINISTRATIVE LAW, ETHICS & PROFESSIONALISM

END OF FIRST SEMESTER FINAL EXAMINATIONS

NOVEMBER 2021

LECTURER: C. MUNGUMA

DURATION: 5 HOURS

INSTRUCTIONS

Answer one question

Marks allocated to each question are indicated in brackets at the end of the question

Question 1

- a) Discuss with the aid of case law whether constitutional bodies (like the office of the Prosecutor General) can have their decisions reviewed by the courts in Zimbabwe. [25]
- b) Zimbabweans have a constitutional right to fair Administrative action. Discuss this right as it is provided by the Constitution and the Administrative Justice Act. [25]

Question 2

A housing cooperative operating in Harare bought a piece of land from the City. After acquiring the land the cooperative did not follow any law as provided by the Urban Councils Act or by operative planning laws. They immediately started parceling the land for housing stands to cooperative members without seeking any permission from Council. In the meantime the land had no on-site and off-site developments in the form of running water, sewer, roads and electricity.

After buying the land members of the cooperative immediately started building houses and cabins on the stands. The settlers were using to boreholes as sources of water for their domestic use. For ablution services a few built some pit latrines while the majority had no toilets at all. During the first week of the rains four cases of severe dysentery were recorded. The health authorities were seriously alarmed by the health situation on the site. They feared an outbreak of cholera would erupt as the rain season progressed.

Under pressure from the health authorities and the central government in general, the City of Harare wrote a letter to the cooperative ordering an immediate evacuation of the site by the cooperative settlers. In addition, they also gave an order in terms of the planning laws ordering that all structures that had been built on the site were supposed to be destroyed by the owners within 24 hours failing which the City would pull down the structures in the next 48 hours at the expense of the residents. True to its word, in the next two days all structures on site were destroyed. The City's argument was that the structures were illegal and built un-procedurally by the occupants. As a result of the destruction, the residents are staying in the open in the rain season.

A group of 10 from the cooperative approaches you for advice. The 10 are aggrieved that their rights were violated by the City and possibly by the government and intend to contest the destruction of their properties in court. As their legal advisor advise them on the following issues:

- a) What administrative rights if any of the cooperative and its members who were occupying the land violated? [25marks]
- b) In your view what steps if any, was the City of Harare supposed to follow when it discovered that 'illegal structures' were being constructed on the cooperative land? [10marks]
- c) Briefly discuss with the aid of examples (including case law) how the *nemo judex in sua causa* (rule against bias) principle of natural justice apply in practice? [15]

Question 3

- a) How do the courts control the enactment of delegated legislation in Zimbabwe? [15]
- b) How is unreasonableness used to challenge decisions of administrators? [6]
- c) Analyse statute as a source of law in Zimbabwe. [4]
- d) Compare and contrast the jurisdiction of:
 - i) The Supreme Court and the Constitutional Court.
 - ii) Administrative Court and the Magistrate Court. [10]
- e) In your view which court handles the majority of administrative court cases in Zimbabwe? [5]
- f) Compare the common law and Statute as sources of administrative law in Zimbabwe. [10]

END OF EXAMINATION
