

ADL2601

October/November 2014

ADMINISTRATIVE LAW

Duration 2 Hours

100 Marks

EXAMINERS

FIRST

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SECOND

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Closed book examination.

This examination question paper remains the property of the University of South Africa and may not be removed from the examination venue.

This paper consists of four (4) pages.

- **Answer ALL the questions.**
 - **Pay attention to the ALLOCATION OF MARKS and adapt your answer accordingly.**
 - **Refer to relevant CASE LAW and OTHER AUTHORITY.**
 - **Please do NOT SEPARATE SUBSECTIONS of questions.**
 - **Credit will be given to SYSTEMATIC PRESENTATION, GRAMMATICALLY CORRECT LANGUAGE and reference to LEGAL AUTHORITY.**
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Jetset Projects has lodged an application in terms of the Cape Land Use Planning Ordinance 15 of 1985 for the rezoning of its property zoned for "residential purposes" to "business" to build a several story high boutique hotel on the Atlantic seaboard of Cape Town. The relevant department of the City of Cape Town considers the application and approves the application for rezoning. However, the local ratepayer's association is against the construction of the hotel since not only will the building of the hotel take from them their beautiful sea-view and thus infringe their right to an environment that is not harmful to their well-being but will also lead to huge traffic congestion since the road along the sea front is quite narrow. The association alleges further that it was not asked for any input in the matter and that the department did not provide any reasons for the decision.

Answer the following questions and substantiate your answers.

TURN OVER

Question 1

- 1 1 Briefly define "state authority" (4)
- 1 2 Give an example of a general administrative-law relationship (2)
- 1 3 Define "organ of state" with reference to the Constitution. Is there an organ of state in the set of facts? Give a reason for your answer (7)
- 1 4 Identify the administrative action in the set of facts. In your answer you should give a full definition of the concept "administrative action" as provided in the Promotion of Administrative Justice Act (PAJA) 3 of 2000 (12)
- [25]**

Question 2

- 2 1 Answer the following questions. Each question is provided with a number of options as possible answers. Only one option or statement in each question is correct. You must therefore identify the correct option and write down the number of the option that you have identified next to the question number.
- 2.1 1 There are three classes of administrative action. Which of the following is **NOT** one of these?
- (a) legislative administrative acts
 - (b) judicial administrative acts
 - (c) administrative acts
 - (d) parliamentary acts
- 2.1.2 Section of the Constitution is entitled "Basic values and principles governing public administration"
- (a) 195
 - (b) 239
 - (c) 33
 - (d) 26
- 2 1 3 Legitimate expectation is recognised in section of PAJA
- (a) 33
 - (b) 3(1)
 - (c) 4(2)(b)
 - (d) 5(4)

TURN OVER

- 2 1 4 In cases where an administrative action materially and adversely affects the rights of the public, an administrator, in order to give effect to the right to procedurally fair administrative action, must do the following
- (a) approach a court of law in terms of section 4(3)
 - (b) place an advertisement of the decision in the *Provincial Gazette*
 - (c) hold a public enquiry in terms of section 4(2)
 - (d) review the decision internally in terms of section 4(2)

- 2 1.5 Which one of the following is **NOT** one of the “sub-rules” of the *audi alteram partem* rule?

- (a) proper notice of intended action
- (b) reasonable and timely notice
- (c) reasons must be given
- (d) the rule against bias

(5)

- 2 2 Explain judicial administrative acts and give an example of an administrative tribunal (7)

- 2 3 Explain the principle of legality with reference to case law and the Constitution. Also mention the basis thereof and how it operates in the constitutional framework (8)

[20]

Question 3

- 3 1 What are the rules that apply when delegation of powers is permitted? (4)

- 3 2 What are the forms of abuse of power by the administrator? (3)

- 3 3 Briefly explain how PAJA gives effect to the right to reasonable administrative action (2)

- 3 4 Briefly explain the application of the doctrine of legitimate expectation (4)

- 3 5 Does the department's decision to grant the application for rezoning comply with the mandatory requirements for procedural fairness? Explain your answer with reference to the relevant provision in PAJA and the requirements listed there (7)

- 3 6 Can the local ratepayer's association request reasons for the department's decision to grant the application for rezoning and, if so, would the department be required to give reasons in terms of PAJA? (6)

- 3 7 What would the situation be if the department fails to provide reasons? (4)

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TURN OVER

Question 4

- 4 1 What is the difference between control and remedy? (4)
- 4 2 The general rule is that internal remedies must first be exhausted before an aggrieved party can approach a court of law, but there are exceptions to this rule. When would internal control not be the proper remedy? List the exceptions (7)
- 4 3 List and briefly explain the forms of judicial control (12)
- 4 4 What is the purpose of section 8(1)(b) of PAJA? (2)
- [25]**

{TOTAL: 100}