



TECHNICAL UNIVERSITY OF MOMBASA

SCHOOL OF ENGINEERING AND TECHNOLOGY
DEPARTMENT OF ARCHITECTURE & BUILT ENVIRONMENT
UNIVERSITY EXAMINATION FOR:
BACHELOR OF ARCHITECTURAL STUDIES/ BACHELOR OF
ARCHITECTURE

EAR 4406: CONSTRUCTION LAW

YEAR FOUR SEMESTER II

END OF SEMESTER EXAMINATION

SERIES: AUGUST 2024

TIME: 2 HOURS

DATE: Pick Date Aug. 2024

Instructions to Candidates

You should have the following for this examination

-Answer Booklet, examination pass and student ID

-This paper consists of **FIVE** questions.

Attempt question ONE (Compulsory) and any other TWO questions.

Do not write on the question paper.

QUESTION ONE (COMPULSORY) -30 MARKS

- a) Explain each of the following torts with relevant examples that may arise in the process of building construction:
- i. Trespass to land; (3 marks)
 - ii. Private nuisance. (3 marks)
- b) Describe the composition and jurisdiction of each of the following courts in Kenya:
- i. The Supreme Court of Kenya; (4 marks)
 - ii. Small Claims Courts. (4 marks)
- c) Explain the FOUR elements that are required to be proved in tort of negligence. (8 marks)
- d) Explain the main provisions of the Employment Act 2007 regarding unfair termination and remedies for such termination. (8 marks)

QUESTION TWO (20 MARKS)

- a) Explain discharge of contract by breach. (8 marks)
- b) Explain FOUR causes of land disputes in Kenya. (12 marks)

QUESTION THREE (20 MARKS)

- a) Describe the judicial control over delegated legislations in Kenya. (8 marks)
- b) Explain each of the following conditions that may affect the validity of a contract:

i. Improperly obtained consensus; (6 marks)

ii. Illegality. (6 marks)

QUESTION FOUR (20 MARKS)

Describe each of the following methods of acquiring land in Kenya:

a) Land adjudication and registration (5 marks)

b) Compulsory acquisition (5 marks)

c) Adverse possession (5 marks)

d) Succession (5 marks)

QUESTION FIVE (20 MARKS)

You have advised a client to take civil litigation action against a developer he has accused of encroaching on his land.

a) Describe the actions he should take:

i. before filing the case in court; (5 marks)

ii. to file and serve the defendant. (5 marks)

b) Explain the interim and final remedies he should seek from the court. (10 marks)