



RIARA LAW SCHOOL

END OF SEMESTER EXAMINATIONS.

RLLB 205: ADMINISTRATIVE LAW -2

LLB 2

Sept-Dec 2015

EXAMINER: Victor Lando

Instructions:

- This is a closed book examination.
- This exam accounts for 70% of your final grade.
- You have **THREE HOURS** to complete this examination
- This examination contains **THREE** questions. Answer **ALL** questions
- Spend time to understand each question before writing your final answer. Write clearly, neatly and legibly
- Write your student number **ONLY**. Do not write your name on your answer script.
- Use the **IRAC** model for your answers where appropriate

Question 1:

Annabel is the proprietor of H2O systems, a water bottling and supply company in Nairobi

In June 2015 she applied for a water supply and bottling license from the Nairobi City Water Service, created under the Nairobi City Water Service Act.

She was informed that she had to fill an application form and pay fee of Ksh 100,000. She was also informed that it would take about a week to effect the connection.

3 weeks later, there was still no connection and no word from the NCWS. She then went to their head office and demanded an update of the situation. She was informed that there was a change of procedure, and that she had to make a fresh application and pay 200,000. Annabel became furious and lashed at the manager and his personnel, causing a scene, calling them incompetent and highly ineffective. She nonetheless complied, by paying the extra 100,000 and submitted a fresh application. Two weeks later, she received a letter from the CEO of NCWS stating that “the Board has considered your application and regrets to inform you that your application has been declined. “

Aggrieved by the Board’s decision, Annabel appealed to the Nairobi Water Tribunal, created under the NCWS Act to review decisions of the Board. Section 17 of the NCWS Act provides that the decision of the Tribunal is final.

Annabel’s application for review was on among other grounds,

That the Board acted unreasonably and did not give her reasons for denial of the water connection, and that in the event her application was denied then she should be refunded her 200,000.

On the hearing day, Annabel appeared in the company of her lawyers, Chase and Associates.

However, Mr. Chonjo, the Chairperson of the Tribunal commenced by informing Annabel that she was not in court and therefore her lawyer should leave -that lawyers only complicate things . Mr. Chonjo went on to state that Annabel had acted rudely by shouting and causing a scene at the NCWS manager’s office.

Mr Chonjo told her that ‘her goose was cooked’ and she would not be getting any license.

A few days later, Annabel received a letter from the Tribunal informing her that the 'application by the Applicant is dismissed. The decision of the Board is hereby affirmed. Furthermore, the Applicant is barred from applying or holding a water supply and bottling license for 2 years'

It emerges that the Chairperson of the Tribunal and the CEO of NCWS are directors in Jameson enterprises, a company that provides bottled water and water supply solutions. Annabel's main competitors.

Annabel comes to you seeking your legal advice

Provide Annabel with a detailed legal opinion using among others statute and case law, on what legal recourse she has against the Tribunal under Judicial Review. (25 marks)

Question 2.

On the basis of the legal opinion rendered above, draft an application for leave. (25 marks)

Question 3.

Write short explanatory notes on the following:

- a) The meaning of judicial review (definition, scope, statutory underpinning, key distinguishing features of Judicial review)
- b) Remedies available under Judicial review.
- c) The grounds for the grant of Judicial review remedies under Kenyan law
- d) Ouster clauses

(20 marks)