

CENTRAL ASSOCIATION OF AGRICULTURAL VALUERS



Market Chambers, 35 Market Place, Coleford, Gloucestershire GL16 8AA

Tel: 01594 832979

Fax: 01594 810701

WRITTEN EXAMINATION

PAPER II

15 NOVEMBER 2007

10.45am – 12.45pm

Time Allowed – 2 Hours

Instructions to Candidates:

1. Complete the Green Examination Information Sheet by stating your examination candidate number (not your name) together with the area in which you are practising and the local Association of which you are a member. Attach the green sheet to the top of your answer pad and ring the numbers of the **three** questions that you have answered.
2. Write your candidate number (not your name) on each page. Put the number of the question and the page in the top right-hand corner.
3. Write on one side of the paper only, leaving the margin on the left-hand side.
4. Start each answer on a separate sheet and place your answers in numerical order.
5. Time has been allowed for you to read through the Question Paper **and plan** your answers.
6. You should attempt to answer **three** out of the five questions, listing them on the green sheet.
7. All questions carry equal marks: 20 each.
8. Questions are framed so as to minimise the need to make assumptions but state clearly any that you do make and the reasons for them.
9. Where appropriate, you will be expected to state the relevant Act, Statutory Instrument or case upon which you have based your answers.
10. You may use imperial or metric measurements in your answers. Please indicate which units you are using.
11. The presentation and clarity of your answers is important.

PAPER II Q 1

Your client, Col. Mustard, is the owner of the 1,800 hectare Woodley Estate. The Estate comprises some in hand woodland, 25 cottages in Woodley village and nine farms, all of which are let on AHA 1986 tenancies.

Bachelor farmer, Ted Ward, who has been tenant of Home Farm, Woodley for over 35 years has served notice to quit the holding with effect from 29th September 2008. The holding, which lies at the centre of the estate, includes:

- a large 6 bed farmhouse in need of modernisation and traditional buildings adjoining the farmhouse.
- on a site approximately 200 metres away and with a separate access is a 2,000 tonne bulk on-floor grain store erected by the tenant in 1985, a Dutch barn, an enclosed general purpose fertiliser/machinery store and workshop.
- land extending to 300 hectares of Grade 3 arable land, 20 hectares of permanent pasture and 10 hectares tracks, spinneys and uncroppable areas.
- two cottages: "Pastures" a 3 bed property close to the buildings which is vacant. The second is 1 The Town, a 2 bed property in the village has been occupied by Bob Smith and family, a tractor driver aged 58, employed by Ted Ward since 1980.

Your client wishes to re-let the holding and you are due to see him to discuss the options available. Prepare **notes** in advance of your discussion to cover the following:

1. End of tenancy procedures and claims (6 marks)
2. Options for re-letting and possible level of rents for each option (10 marks)
3. Likely timetable for letting (4 marks)

State clearly in your answer any assumptions you make.

PAPER II Q 2

A) You are being invited to act as an expert witness in a contested rent review which is going to arbitration but could ultimately end up in County Court litigation

[i] Describe the duties of an expert witness, and how you would fulfil these duties before and during the hearing and to whom you owe the duty of care.

(4 marks)

[ii] What rules govern the giving of expert witness evidence in court? (3 marks)

[iii] Explain the difference between witness of opinion and a witness of fact

(2 marks)

[iv] You have been instructed by the parties to act as a single joint expert on a farm budget. Prepare a draft appointment letter accepting instructions to act in this capacity. (8 marks)

B) In determining a rent review, what are the differences between an expert and an arbitrator? (3 marks)

State clearly in your answers any assumptions you make.

PAPER II Q 3 – ANSWER BOTH PARTS

A. You have been approached by a prospective new client who has asked you to explain why he should appoint a Fellow of the CAAV to act on his behalf rather than another agent who simply describes himself as land agent with no professional qualification.

Write a **LETTER** to this prospective client

- (i) To explain why he should appoint a Fellow of the CAAV to act on his behalf. (2 marks)
- (ii) To set out the standard terms of engagement including all client relationship matters for a new client requesting general property advice. (8 marks)

B. You have received a telephone call today from a client who has complained that you have failed to ensure that a succession application on death was received by the Agricultural Land Tribunal within the relevant time period and it is now too late to make this application. Write a **FULL FILE NOTE** of the procedures that must now be followed, actions to be taken and the information that will be required in order to properly deal with this matter. (10 marks)

PAPER II Q 4

You act for Mrs Brighteyes who is in a serious matrimonial dispute with her husband – the matter is heading for the divorce courts. Your client’s solicitor has asked you to provide a valuation of 20 acres of agricultural land, part of the farm jointly owned with her husband. Three years ago your client and her husband entered into an option agreement to grant first refusal to a developer on the 20 acres. The developer has, for some time been seeking planning permission for a large new settlement. Discussions have also taken place in the interim at strategic planning level with the regional planners. The farm is freehold and the 20 acres is in hand. Normally land subject to an option would not be sold until planning permission was granted but the solicitors have asked for your views on the land’s value as it may have to be sold in view of the escalating disharmony within the marriage.

A major developer-partner has just purchased a large tract (20 acres) of contiguous land, without planning permission, for £50,000 per acre. Agricultural land in this area is changing hands for around £3,250 per acre.

Set out a **straightforward report** (remembering that the report may be used in court) for the solicitors to include the following:

- 1) Your valuation of the 20 acres stating any assumptions you make, including assumptions as the terms of the option, any relevant case law and any other matters that may affect your valuation. (14 marks)
- 2) Suggestions to the solicitors as to how to maximise the benefit for Mrs Brighteyes. (6 marks)

PAPER II Q 5

Ian King successfully bid for the tenancy of Green Farm, Bourton on the Wold, in 1982. The tenancy commenced on 29th September. It is a 200 hectare principally arable farm with a suckler cow and beef fattening enterprise on 40 hectare of meadowland. Ian King has asked if you will call and see him and his two sons, Bill and Ben, to talk to them about tenancy succession rights.

The family is:

- Ian, the tenant, a fit and active 58 year old who wishes to take more time to pursue his hobby of sailing but would like his sons to succeed to the tenancy.
- Bill, the elder son, a keen mechanic who has built up a good business repairing agricultural machinery based in the farm workshop, helping out on the farm only at busy times. He lives on the tenanted holding with his wife who looks after their two children fulltime.
- Ben works on the farm but uses some of the spare arable machinery capacity to help out neighbours on a contract basis. Ben is also married, his wife works as a partner in a large city law firm specialising in mergers and acquisitions and they have no children. Ben's wife has just inherited 100 hectares of tenanted arable land with a house which will be available to be farmed and occupied by the family from September 2008.

They farm in partnership together.

Prepare **a briefing note** that you can talk through with your clients to cover:

1. The rights afforded by the tenancy and Ian's options (4 marks)
2. The rules governing tenancy succession (4 marks)
3. The application of these rules to the circumstances at Green Farm and a strategy to follow with action points for each of the three individuals (10 marks)
4. Ways in which the landlord may seek to vary the terms of the tenancy (2 marks)

State clearly in your answers any assumptions you make.