



THE UNIVERSITY OF THE WEST INDIES

EXAMINATIONS OF _____ ***APRIL/MAY*** _____ **2005**

CODE AND NAME OF COURSE: LA27A (LAW2710) - ADMINISTRATIVE LAW

DATE AND TIME:

DURATION: 2 HOURS

INSTRUCTIONS TO CANDIDATES: This paper has 3 pages and 6 questions.

Answer **THREE (3)** questions. Answers may be confined to the law of any jurisdiction in the Commonwealth Caribbean unless the context indicates otherwise.

1. "The presence of ouster clauses in constitutions and statutes has not prevented the courts from reviewing unlawful administrative action. Judicial activism has been responsible for this."

Discuss.

2. "The doctrine of legitimate expectation has now evolved to the extent that it provides protection for both procedural and substantive expectations."

Discuss.

PLEASE TURN OVER

3. Section 13 of the Administrative Justice Act of Barbados provides as follows:

“13. (1) It is the duty of any person or body making a decision to which this section applies, if requested in accordance with section 14 by any person adversely affected thereby, to supply to that person a statement of the reasons for the decision.

(2) This section applies to any decision that is required by law (including any enactment) or by contract to be made in accordance with the principles of natural justice or in a fair manner with the exception of

(a) any decision for which by express provision of any enactment reasons are not to be required;

(b) any such decision as is specified in the First Schedule”

Assess this statement in light of the evolution of the law relating to the duty imposed on administrative authorities to state reasons.

4. Ryan, a licensed vendor in the Rockers Lane Market, is caught plying his trade outside of the official closing hours of the market in breach of the conditions of his licence. Following a report by Lisa, Ryan’s competitor in business, to the Market Board, the disciplinary committee of the Board convenes a meeting to hear the complaint against Ryan.

At the hearing, the disciplinary committee refuses to allow Ryan’s attorney-at-law to be present at the meeting on the ground that Ryan is competent enough to speak for himself and they are prepared to hear him in his defence. Ryan seeks an adjournment, but this is refused by the disciplinary committee which sees the request as an attempt to waste time.

After hearing the opening statement of the case read by the secretary of the disciplinary committee, the chairman amends the charge to add the more serious charge of “engaging in conduct likely to bring the market into disrepute”.

During the hearing, Lisa is allowed to sit with the disciplinary committee. It is not apparent that she takes part in the decision of the disciplinary committee. The committee finds Ryan guilty and bans him from the market for life.

Advise Ryan.

PLEASE TURN OVER

5. The Licensing Authority Act of West View, an independent Commonwealth Caribbean State, vests the Licensing Authority ('the Authority') with the power to issue licenses to all operators of restaurants in the jurisdiction. The Authority's power also extends to the revocation of existing licences:
- (a) if an operator is convicted of an offence under the Act;
 - (b) if an operator fails to renew his licence within the time specified;
 - (c) if the Authority is satisfied that an operator keeps his premises in an unsanitary condition;
or
 - (d) in any other case that it thinks necessary.

Thomas applies for a licence to operate a restaurant. The Authority refuses the application because the Authority does not deem it "in the best interest of the community". Thomas is aggrieved by this decision.

In arriving at its decision the Authority took into consideration a report prepared by the Supervisor of Restaurants which was adverse to Thomas.

Advise Thomas.

6. "The courage of judges has been instrumental in allowing the courts to assert their supervisory authority over the administrative process. This is not only evidenced in relation to the manner in which the courts determine the validity or otherwise of the decision, but also, in the kind of bodies whose decisions they are now willing to review."

Discuss.

END OF PAPER