

UNIVERSITY OF SWAZILANDDEPARTMENT OF LAWFINAL EXAMINATION PAPER, 2005 (SUPPLEMENTARY)

TITLE OF PAPER : ADMINISTRATIVE LAW

COURSE CODE : L205

TIME ALLOWED : THREE (3) HOURS

INSTRUCTIONS : ANSWER FOUR (4) QUESTIONS  
ALL QUESTIONS CARRY EQUAL MARKS

**THIS PAPER IS NOT TO BE OPENED UNTIL PERMISSION HAS BEEN  
GRANTED BY THE INVIGILATOR.**

### QUESTION ONE

Zakhele Sibandze is a resident of the city of Mbabane. Sibandze is desirous of turning one of his homes into a private school. In terms of the Town Planning Proclamation, Sibandze is required to make an application to the Mbabane City Council for the property in question to be rezoned before he can start operating his school. In terms of the same piece of legislation, the City Clerk is empowered to make an order in writing and under his hand either allowing or disallowing such rezoning. At the time that Sibandze made his application, employees of the City Council were on strike and the City Clerk was busy in negotiations with them. Consequently Sibandze's application was directed on to the City Engineer's desk for attention. After a telephonic discussion with the City Clerk about the application, the City Engineer proceeded to write a letter refusing the rezoning application.

Sibandze now wants to challenge the Council's refusal of his application. Advise him on what his grounds for challenging the refusal are, if any, and his chances for success.

[25 marks]

### QUESTION TWO

"The essence of the doctrine of ultra vires is that a person or body under statutory power can only do those things that the statute authorizes him to do." Discuss.

[25 marks]

### QUESTION THREE

Write short notes on ALL the following:

- a) The remedy of habeas corpus [5 marks]
- b) Common law as a source of administrative law [5 marks]
- c) The constitutional foundations of administrative law [15 marks]

#### QUESTION FOUR

“When deciding whether a power to delegate is lawful, one has to consider the nature of the duty in question and the character of the body or person upon whom the power is conferred. As a general rule, judicial or disciplinary power should not be delegated.”

Discuss.

[25 marks]

#### QUESTION FIVE

Write a commentary on the decision of the court in the cases of *Ndlwana v Hofmeyer* and *Harris v Minister of Interior*.

[25 marks]