

**VIRGINIA STATE BAR
REAL PROPERTY SECTION**

**MINUTES OF THE WINTER MEETING OF
THE BOARD OF GOVERNORS AND
AREA REPRESENTATIVES**

January 20, 2012
Williamsburg, VA

Pursuant to due notice, the "Winter Meeting" of the Virginia State Bar Real Property Section Board of Governors and Area Representatives convened at 2:10 p.m. on January 20, 2012, in the Rockefeller Room of the Williamsburg Inn, Williamsburg, Virginia. Section Chair Paul Melnick presided and Secretary/Treasurer Bill Nusbaum recorded the minutes. Also present in person were Christina Meier, Brian Dolan, Ken Dickinson, Eric Zimmerman, Steve Wood, Paula S. Caplinger, Harry Purkey, Amanda Smith, Ed Waugaman, Rick Richmond, Mark W. Graybeal, Susan Pesner, Whitney Levin, Howard E. Gordon, Larry J. McElwain, David Helscher and Dean Lynda Butler. Attending by conference call were Paul Bellegarde, Ron Wylie, Mark Williamson, Pam Fairchild, Kay Creaseman, Douglass Dewing, Todd Condren, Cooper Youell, Susan Walker and Neil Kessler. Randy Howard was noted as an excused absence. Jack Hanssen also attended, initially as a guest.

I. Welcome. Chair Paul Melnick welcomed everyone to the Winter Meeting, and encouraged everyone to enjoy the late lunch spread at the rear of the room. There were no comments from Area Representatives.

II. Deferral of Approval of Minutes. Due to confusion on the Secretary/Treasurer's part, copies of the minutes of the September 9, 2011 "Fall Meeting" of the Board of Governors and Area Representatives and a November 29, 2011 telephone conference call of the Board of Governors were not present, and so the approval of those minutes was deferred until the "Spring Meeting." Minutes of both of those previous meetings, along with these minutes, are to be distributed by e-mail prior to the Spring Meeting.

III. Financial Report. Chair Melnick distributed the Section's December 31, 2011 income statement (attached as Exhibit 1) and reviewed it, along with expenditures incurred after the income statement's cutoff date, and advised that at this point, the current FY Income Statement was in good shape.

IV. New Area Representatives. The Chair recognized Eric Zimmerman, who introduced Jack Hanssen to the meeting, and then moved his election as an Area Representative from the Northern Virginia region, Larry McElwain seconded the motion, and it was unanimously adopted. The Chair welcomed him, and promised to communicate with him after the meeting about his committee assignment.

V. Seminars. The Chair asked for reports on the Section's three CLE programs.

- (a) Advanced. Program Chair Larry McElwain reported that the program for the Advanced Real Estate Seminar in Kingsmill on March 2-3 was set, and that a one-time, \$20 discount was available to Section members who signed up on line.
- (b) Annual. Program Chair Larry McElwain reported that the program for the multi-site Annual Seminar was also set, and that both a one-time, \$20 discount was available for Section members who registered on line (if they didn't use it for the Advanced Real Estate Seminar) and a \$15 credit being offered to Section members by Virginia CLE.
- (c) Summer Annual Meeting CLE. Secretary/Treasurer Nusbaum reported the CLE program would be jointly hosted with the Taxation Section at our usual location and time, focusing on tax issues in real estate transactions, with the speakers to be determined shortly.

VI. Unfinished Business.

- (a) Board and Area Representative Handbook. The Chair recognized Membership Chair Larry McElwain, who explained that the Handbook would be updated each summer and then distributed. The Chair asked that when the Handbook is updated, it include the new Honorary Area Representative category.
- (b) Area Representative Letter Survey Responses. The Chair thanked Membership Chair McElwain for his extensive work in surveying the Area Representatives, citing the need to build on the great recruitment work by former Chair Joe Cochran. Due to the extensive and thoughtful comments in the survey, the Chair indicated the Board would hold a telephone meeting within the next few weeks to review comments and recommend a path forward, reporting to the Spring Meeting at Kingsmill. Larry McElwain noted briefly that impressively, more than 70% of the Area Representatives responded, and that the Membership Committee's goal is to propose an effective reorganization and re-energizing of the Section's committees.
- (c) Purchase of Virginia CLE Materials. This matter was tabled until the final report of the Area Representatives study establishes how many persons will be offered the opportunity to buy Virginia CLE materials with a Section credit.
- (d) Items from the Floor – The Courtland Traver Award. The Chair recognized Larry McElwain, who explained that the Courtland Traver Award is, oddly enough, a Virginia Bar Association award which has traditionally been given at our Section's Spring Meeting dinner at Kingsmill. The award, Mr. McElwain noted, serves to stimulate participation in the Section, to which Ed Waugaman added that its original purpose was to recognize extraordinary CLE work, since CLE speakers never get paid for their efforts. Mr. McElwain advised that last year, when the VBA declined to fund the \$500 scholarship to the Advanced Real Estate Seminar, Virginia CLE stepped up and underwrote the entire scholarship, but this year, Virginia CLE will only be able to "comp" the tuition for the seminar, and

cannot fund the entire scholarship. Accordingly, Mr. McElwain asked that the Board assure the Traver Award's continuation by funding the balance of the scholarship cost (for room and board), at a cost to the Section not to exceed \$500. Susan Pesner then moved that if the VBA fails to fund the Traver Award Scholarship this year, then the Board is authorized to submit a Budget change request for \$500 to the State Bar office to fund the room and board portion of the Traver Award scholarship from the Section's Travel and Subsistence budget, whereupon the motion was seconded by Mr. Waugaman and unanimously adopted.

VII. New Business.

- (a) The Fee Simple. The Chair commended the co-editors for the recently published issue honoring the late Minerva Andrews. Turning to the upcoming May issue, he mentioned that article ideas for it are due by February 15. Bill Nusbaum observed that with the move to the use of a student editorial staff assistant, whose availability would be limited by academic obligations and exams, we may need to adjust the timing of our publication dates. Rick Richmond suggested that future issues be designated as the "Spring" and "Fall" issues, instead of May and November, for that reason.
- (b) Website. The Chair recognized Paul Bellegarde, who updated the Board on the lack of progress in securing the desired meeting with VSB Communications Director Rod Coggin and Rod Tyler of McGuireWoods and the VSB Communications Committee. He hopes the meeting will occur in February, and previewed for the Board the issues he foresees will be discussed in the meeting. A further report was requested at the Spring Meeting.
- (c) Proposed Budget for FY2013. The Chair reviewed the proposed Section budget for the next fiscal year (attached as Exhibit 2), suggesting the reduction of the Website Development and Maintenance line item from \$5500 to \$1200, since Diane Bellegarde will not charge for maintaining the new website, if and when launched. Due to the pending reduction of Dean Lynda Butler's role in the editing of The Fee Simple, the Chair suggested adding a line under "Other" entitled "Newsletter Production – Student Editorial Assistant" for \$2400. Bill Nusbaum suggested the line under "Other" entitled "Annual Meeting Gifts" be changed to simply read "Meeting Gifts" and be increased from \$100 to \$600 to include funding for the Traver Award scholarship for FY 2013. There being no further suggestions, the revised proposed budget for FY 2013 was approved by consensus for submission to the State Bar for approval.
- (d) Student Editorial Assistant for The Fee Simple. Chair Melnick explained that changes in Dean Butler's academic duties made it necessary for her, after 25 years (!) of service to the Section as its editor or co-editor, to reduce her responsibilities. After extensive discussion with her and Co-editor Steve Gregory, they are leaning towards recommending that the Section hire a William & Mary Law School student as a Student Editorial Assistant at the cost of \$1200 per issue to help with

the editorial work involved in producing the publication. Dean Butler advised that while she would be reducing her level of involvement, she would still be willing to supervise the Student Editorial Assistant. This work would commence with the Spring issue, and would not include cite checking, which remains the sole responsibility of the authors. The Chair indicated that a conference call among the Section officers and the Co-Editors would be held immediately after the meeting, in which the recommendation would be firmed up. The Board approved by consensus the submission of a budget amendment to the State Bar to authorize the payment of \$15.00 per hour, capped at \$1,200.00, to a Student Editorial Assistant for the Spring issue, if that was the recommendation of the conference call following the meeting.

(e) Items from the Floor. – None.

(f) Standing Committee Reports.

i. Membership. Larry McElwain had no report in addition to the discussions above.

ii. The Fee Simple. Dean Butler had no report in addition to the discussions above.

iii. Technology. Doug Dewing reported that unlimited smart phone data plans were history.

iv. Programs. Larry McElwain had no report in addition to the discussions above.

v. Law School Liaison. Paul Bellegarde advised that the UVA presentation on “Real Estate Law Practice” by Larry McElwain, Chip Royer and himself was very successful, and that he was lining up dates for similar programs at George Mason and William & Mary Law Schools. Larry McElwain suggested the program could perhaps be expanded to include the First Day of Practice program. David Helscher offered to help organize a Washington & Lee Law School program.

(g) Substantive Committee Reports.

i. Common Interest Communities. David Helscher suggested there is a need for the Section to establish a committee focused on issues arising from homeowner associations and common interest communities, and volunteered to chair such a committee. After a brief discussion, it was moved by David Helscher, seconded by Eric Zimmerman and unanimously agreed to create a Common Interest Communities Committee. Chair Melnick promptly asked Mr. Helscher to write an article on the new committee for the Fee Simple, to which he agreed.

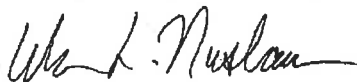
- ii. Ethics. Susan Pesner discussed the continuing confusion over whether non-lawyers can represent sellers. She will have the Ethics Committee work with the State Bar's ethics counsel on the issue, with the goal of producing an informal opinion identifying the services for which a non-lawyer settlement agent can collect a fee.

VIII. Good and Welfare; Next Meeting.

- (a) Brokerage Agreements. Paul Bellegarde mentioned that due to a new Virginia law, all brokerage agreements, including those for leasing, must be in writing. This will apply to both commercial and residential brokerage agreements, effective July 1, 2012.
- (b) Thank you! Chair Melnick expressed the Section's deep appreciation to Dean Lynda Butler for her 25 years of service as an editor of The Fee Simple, and led those present in a rousing round of applause for her.
- (c) Next Meeting. Chair Melnick reminded everyone that the Board of Governors and Area Representatives would next convene in person at Kingsmill on Friday, March 2, 2012, at 10 a.m., prior to the Advanced Real Estate Seminar. He added that the Board of Governors should plan on a conference call meeting between now and the Kingsmill meeting to develop recommendations based on the Membership Committee's Area Representatives survey and report, so that the recommendations may be acted on at the Kingsmill meeting.

There being no further business, the Chair adjourned the meeting at 3:25 p.m.

Respectfully submitted,



William L. Nusbaum,
Secretary/Treasurer

APPROVED:



Paul Melnick, Chair

Exhibits:

- 1 + December 31, 2011 Real Property Section Income Statement
- 2 - Proposed FY 2013 Real Property Section Budget

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EXHIBIT 1

REAL PROPERTY LAW SECTION

REVENUE COLLECTED AS OF 12/31/11 \$ 46,690.00

	<u>FY 2012</u> <u>BUDGET</u>	<u>DECEMBER 2011</u> <u>EXPENDITURES</u>	<u>FY 2012 Y-T-D</u> <u>EXPENDITURES</u>	<u>BALANCE</u> <u>REMAINING</u>
Travel & Subsistence	\$ 15,500.00	\$ 0.00	\$ 671.72	\$ 14,828.28
Printing	3,780.00	0.00	0.00	3,780.00
Communication	1,500.00	30.21	106.26	1,393.74
Other Operating Expenses	17,000.00	100.00	396.25	16,603.75
Total	<u>\$ 37,780.00</u>	<u>\$ 130.21</u>	<u>\$ 1,174.23</u>	<u>\$ 36,605.77</u>

REVENUE COLLECTED AS OF 6/30/11 \$ 47,370.25

REAL PROPERTY SECTION LEDGER
FISCAL YEAR 2012

770

MONTH	DESCRIPTION	AMOUNT	BALANCE
July	Beginning Balance		37,780.00
July	VITA conference call 6/3/11	8.80	37,771.20
July	VITA conference call 6/7/11	4.35	37,766.85
July	Holiday Inn-Room rental	26.25	37,740.60
	TOTAL FOR JULY	39.40	
August	Phat Times-web maintenance	195.00	37,545.60
	TOTAL FOR AUGUST	195.00	
September	Phat Times-web maintenance	25.00	37,520.60
September	Virginia CLE-lunch 9/9/11	179.43	37,341.17
	TOTAL FOR SEPTEMBER	204.43	
October	Paul H. Melnick	115.44	37,225.73
October	Randy C. Howard	80.48	37,145.25
October	Eric Vaughn Zimmerman	117.66	37,027.59
October	William L. Nusbaum	178.71	36,848.88
October	VITA conference call 9/6/11	5.27	36,843.61
October	VITA conference call 9/9/11	57.63	36,785.98
October	Phat Times	50.00	36,735.98
	TOTAL FOR OCTOBER	605.19	
December	Phat Times-web maintenance	25.00	36,710.98
December	VITA conference call 11/29/11	30.21	36,680.77
December	Phat Times-web maintenance	75.00	36,605.77
	TOTAL FOR DECEMBER	130.21	

IBIS MEMBER STATUS REPORT (EXTERNAL)
SECTION COUNT REPORT

01/18/2012

Section	Act/Aso	Judicial	Non-Bar	Other	Total
Administrative Law	386	71	2	0	459
Antitrust Law	196	6	2	0	204
Bankruptcy Law	784	26	2	3	815
Business Law	1,742	41	2	7	1,792
Construction Law	742	25	2	1	770
Corporate Counsel	1,299	5	2	50	1,356
Criminal Law	2,078	335	2	5	2,420
Education of Lawyers	228	47	174	4	453
Environmental Law	402	18	2	1	423
Family Law	1,754	204	2	4	1,964
General Practice	800	101	2	1	904
Health Law	518	28	2	0	548
Intellectual Property	1,685	44	2	9	1,740
International Practice	347	11	1	4	363
Litigation	2,892	192	1	5	3,090
Local Government Law	602	29	2	1	634
Military Law	249	19	3	2	273
Real Property	1,856	30	2	10	1,898
Taxation	618	7	2	3	630
Trusts & Estates	1,711	32	2	3	1,748
TOTAL	20,889	1,271	211	113	22,484

EXHIBIT 2

SECTION:

Real Property Section

FY 2012-2013 PROPOSED BUDGET

Projected Revenue:

Projected Dues Revenue - FY 2012-2013:			
1856	\$	25.00	\$ 46,400
Number of Members		Cost per Member	<u>80%</u>
Dues available to budget			\$ 37,120
Seminar/Misc. Revenue, if any			
Total Available to Budget			<u>37,120</u>

Projected Expenditures:

Travel & Subsistence		<u>16,000</u>
Board meetings:	\$ 13,500	
Annual Meeting:	2,500	
Printing		<u>3,800</u>
Newsletters:	3,500	
Annual Meeting:	300	
Communication		<u>1,620</u>
Postage/Newsletter:	1,000	
Postage/Special Events:		
Conference Calls:	620	
Annual Meeting:		
Special Awards/Donations/Stipends/Writing Contests		<u>5,600</u>
(Please describe & itemize expenses by line item)		
Marshal Wythe School of Law	1,600	
Virginia CLE-Seminar reimbursement	4,000	
Other		<u>10,100</u>
(Please describe & itemize expenses by line item)		
Newsletter Production-Felicia Burton	4,000	
Website Development & Maintenance	5,500	(1200.00)
Annual Meeting AV	100	
Meeting Room Rental Fees	500	
Annual Meeting Gifts	(600)	
Newsletter Production - Jane Newsletter	(1)	
Newsletter Production Student Editorial	(2400)	(2400) student editor
Assistant 80 hours x 15 x 2	(2400)	
TOTAL REQUESTED BUDGET		<u>\$ 37,120</u>

(+300 surplus)

SECTION:

Real Property Section

FY 2012-2013 PROPOSED BUDGET

Projected Revenue:

Projected Dues Revenue - FY 2012-2013:			
1856	\$	25.00	\$
Number of Members		Cost per Member	46,400
			80%
Dues available to budget			\$ 37,120
Seminar/Misc. Revenue, if any			_____
Total Available to Budget			37,120

Projected Expenditures:

Travel & Subsistence			17,300
Board meetings:	\$	14,800	
Annual Meeting:		2,500	
Printing			3,800
Newsletters:		3,500	
Annual Meeting:		300	
Communication			1,620
Postage/Newsletter:		1,000	
Postage/Special Events:			
Conference Calls:		620	
Annual Meeting:			
Special Awards/Donations/Stipends/Writing Contests			5,600
(Please describe & itemize expenses by line item)			
Marshal Wythe School of Law		1,600	
Virginia CLE-Seminar reimbursement		4,000	
Other			8,800
(Please describe & itemize expenses by line item)			
Newsletter Production-Felicia Burton		4,000	
Website Development & Maintenance		1,200	
Annual Meeting AV		100	
Meeting Room Rental Fees		500	
Meeting Gifts		600	
Newsletter Production Student Editorial Assistant		2,400	
TOTAL REQUESTED BUDGET			\$ 37,120