

VIRGINIA STATE BAR  
REAL PROPERTY SECTION

MINUTES OF THE WINTER 2016  
MEETING OF THE BOARD OF GOVERNORS  
AND AREA REPRESENTATIVES

I. CALL TO ORDER

Susan Walker Section Chair, called to order the Winter 2016 Meeting of the Virginia State Bar Real Property Section Board of Governors and Area Representatives at 1:00 p.m. on January 22, 2016 at the Williamsburg Lodge, 310 South England Street, Williamsburg, Virginia. The undersigned, Whitney Jackson Levin, Secretary/Treasurer, recorded the minutes.

II. ROLL CALL

The Secretary/Treasurer circulated a sign-up sheet for those Board members and Area Representatives attending in person and conducted a roll call for those attending via conference call. Those in attendance were as follows: Susan Walker, Whitney Jackson Levin, Rick Richmond, Alyssa Embree, Howard Gordon, Philip Hart, Ed Waugaman, Paula Caplinger, Harry Purkey, Jr., Steve Gregory, Ron Wiley, Jr., Doug Dewing, Susan Pesner, Blake Hegeman, Tara Boyd, Mark Graybeal, Neil Kessler, Bill Nusbaum, Christina Meier, Rosalie Doggett, Hope Payne, Lewis Biggs, Kay Creasman, Lori Schweller, Rick Chess, Todd Condron, and Page Williams. A quorum was present.

III. APPROVAL OF MINUTES FROM LAST MEETING

The following corrections were made to the minutes from the last meeting before the minutes were approved: Correct the spelling of Alyssa Embree's name.

IV. FINANCIAL REPORT

The Chair reviewed the Section's most recent financial statement and reminded all in attendance to submit their expense reports for Fall 2015 and the current meeting. There is going to be a new procedure for reimbursements. Volunteers who are not in the vendor's system by February 1, 2016 will have to submit a W-9 in order to apply for reimbursement.

V. MEMBERSHIP

- a. New Nominees – Todd Condron nominated as a new area representative for the Fredericksburg area, Michele Freemyers, who is his law partner and co-owner in Ekko

Title. The nomination was seconded by Susan Pesner. A vote was taken, and Ms. Freemyers was elected as new area representative.

- b. Philip Hart stated the Area Representatives Handbook was sent out to all area representatives recently. He noted that Area Representatives are to attend two of four board meetings per year and to be a member of at least one committee. Mr. Hart encouraged everyone to review it and give him any comments.
- c. First Day Practice Seminar – Mr. Hart reported that the seminar was held in December in Richmond and was well attended. Mr. Hart, Mr. McElwain, Mrs. Creasman, and Mr. Waugaman participated in the Seminar and encouraged new attorneys to join the Real Estate Section. The Real Estate Section will continue to participate in the seminar in the future.

#### VI. THE FEE SIMPLE

Steve Gregory reported the following regarding the publication:

- a. Fall Publication – Mr. Gregory did not receive any comments regarding the cover photo, which included all of the Section’s officers. Mr. Gregory noted that he is not sure why it took a whole month for publication once the final product was submitted by him. He is concerned about the timing, so the Chair suggested that he talk to Dolly Shaffner to determine why it took so long. Also, one of the authors of an article was upset because the editor changed a somewhat negative comment in the author’s submitted article. This author would like final approval of his articles in the future. The group discussed how to deal with an issue like this in the future, including the possibility of sending a letter to all new authors to explain the policy of the publication.
- b. The Spring deadline is April 1, 2016. Mr. Gregory said he has a couple articles but could always use more. The Spring issue usually runs the summary of the statutory updates. Pia Trigiani is the person who contributes this, but she was not able to do it this past year, and Mr. Gregory is not sure whether it will be included this year. Rick Chess noted the article that Doug Dewing is drafting about the upcoming ALTA/NSPS Land Title Survey Standards changes. The Chair suggested that the Bar may be able to send a brief summary of such changes to the entire section membership by email when a hot topic such as this is involved.

#### VII. CLE PROGRAMS DATES AND SOLICITATION OF TOPICS

The Chair updated the attendees on the following seminars:

- a. Advanced Seminar – The Advanced Seminar will take place the first weekend in March on Friday and Saturday at the Williamsburg Lodge, instead of the Kingsmill

Resort. Registration is now open. Mr. Hegeman, Ms. Caplinger and Ms. Kern have worked on the topics for this seminar.

- b. Annual Seminar – The Annual Seminar will take place in May 2016 at the following locations: Williamsburg - May 11, Lexington – May 18, and Fairfax – May 17. Ms. Caplinger reviewed the topics for the Annual Seminar.
- c. Summer Meeting Showcase CLE – At the summer meeting of the Virginia State Bar in June 2016, the Real Estate Section will be co-sponsoring a Showcase Seminar. Mrs. Levin has been working with Sharon Nelson and others to plan the seminar and secure speakers. The seminar will take place from 1:30 pm to 3:30 pm on Friday, June 17, at the Hilton Oceanfront Hotel in Virginia Beach, and the topic will be *Cybersecurity for Lawyers: Current Developments and Practical Steps to Ethically Protect Your Data*, which will count for 2 hours of ethics CLE credit.

#### VIII. UNFINISHED BUSINESS

- a. Fee Simple Editor's Compensation – The Chair revisited the issue of compensation for the Editor of *The Fee Simple*, who spends about 70 to 80 hours per issue on the publication. The Chair stated that she has spoken to Dolly Shaffner, and the Section is allowed to pay the Editor, just as the Criminal Law Section does for its section. The Chair suggested a \$1500.00 per issue stipend to reflect the group's appreciation. Mr. Nusbaum recommended that we remove any ambiguity from the Section's bylaws regarding compensation for an ancillary service to the Section such as this. The Chair stated that she would seek an opinion from the Bar as to whether the Section needs to amend the bylaws. After a motion, the board voted to approve the compensation of \$1,500.00 per edition for the Editor.
- b. Section Web Presence – The Chair noted that the Section's web presence was discussed at the spring meeting. Mark Graybeal addressed this issue and stated that we are not prohibited from having a web presence, but the Section does have to follow certain procedures. Mr. Graybeal is willing to take this on if the Section wants to pursue it.
- c. Judicial Liaison – The Chair updated the group on the status of a judicial liaison. A conference call with the Board took place last week, and Judge Roush was suggested as a possible liaison, but this item is going to be tabled given that her status is uncertain right now.
- d. A survey of the members regarding jurisdictional differences in recording standards will be addressed in specific committees.

#### IX. NEW BUSINESS

- a. Standing Committee (see written reports)

- b. Membership – Mr. Gregory noted that he has members in his committee that never participate and inquired about how this should be handled. Ms. Pesner noted that the committee chair has the right to inform the Board of Governors, which can then send out a warning letter to the committee meeting. Mrs. Creasman and Mrs. Meier suggested sending emails to the members first asking them if they are still interested in participating. Mr. Nusbaum suggested that the Roster of the Board of Governors and Area Representatives in the Fee Simple needs to be reviewed and updated. Mr. Hart stated that the Section is going to try to sponsor tuition to the Annual Seminar for interested law school students.
- c. Commercial Real Estate – See report.
- d. Common Interest Community – See report.
- e. Creditors Rights – See report. Lewis Biggs noted that the group will probably have one submission for *The Fee Simple* publication.
- f. Eminent Domain – No report.
- g. Ethics – See report.
- h. Law School Liaison – The Chair asked if anyone had heard from Paul Bellegarde recently. She will call him to see if he still wants to participate.
- i. Land Use – See report.
- j. Residential – See report.
- k. Title Insurance – See report.

X. OTHER.

- a. Report on Third Party Legal Opinions – Lewis Biggs reported on the VBA report addressing legal opinions and the standards for the same in Virginia. He noted it is a helpful source but asked whether the Section would like to form a subcommittee to give comments to the VBA before it is published. Also, Mr. Biggs suggested that the Section may want to get permission to publish the report in *The Fee Simple*. Mr. Waugaman noted that the Section has to be aware of the deadlines that the VBA has for publication. The Chair noted that anyone interested should contact Lewis Biggs.
- b. Mr. Graybeal notes that there have been VSC rule revisions relating to protecting confidential client information. He suggested that the members read his attachment, especially the revisions to Rule 1.6 regarding confidentiality.
- c. Report from today's VBA Meeting – Mr. Waugaman encouraged members of this Section to join the VBA. He also noted several bills that were discussed in today's VBA meeting:
  - i. HB 251 – addresses cover sheets and the recording of multiple instruments. There was an issue in Norfolk with Clerk's rejecting documents when the instrument had more than one purpose.
  - ii. HB 1091 – proposes the idea of a settlement statement mandated by Virginia.
  - iii. HB 745 and 746 – addresses amending the disclosure requirements for residential septic tanks, zoning and adjacent properties.
  - iv. HB 595 – addresses married women and property rights.

- v. HB 269 – addresses regulating drones in neighborhoods.
- vi. HB 1298 - proposes that property owners own the airspace up to 500 ft. above the ground.
- vii. HB 567 – proposes that certain items in the Real Estate Board do not apply to commercial transactions.

XI. Next meeting is March 4, 2016 at 10:15 a.m. Williamsburg Lodge. Meeting adjourned at 2:40 p.m.