

VIRGINIA STATE BAR  
REAL PROPERTY SECTION

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

I. CALL TO ORDER

Susan Walker Section Chair, called to order the Summer 2016 Meeting of the Virginia State Bar Real Property Section Board of Governors and Area Representatives at 11:00 a.m. on June 17, 2016 at the Gannett Room B, Oceanaire Resort Hotel, 4321 Atlantic Avenue, Virginia Beach, 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:

Ken Dickinson, James Johnson, Tara Boyd, Doug Dewing, Whitney Jackson Levin, Lewis Biggs, Steve Gregory, Naveed Kalantar, Kathryn Byler, Bill Nusbaum, Cart Reilly, Paula S. Caplinger, Rosalie Doggett, Kathy Crain, Harry Purkey, John Hawthorne, Mark W. Graybeal, Karen L. Cohen, Lori Schweller, Randy Howard, Christina Meier, Michael E. Barney, Christy L. Murphy, Blake Hegeman, Ron Wiley, Jr., Paul Melnick, Kay Creasman, Susan Walker, Ann A. Gourdine, Earnhart A. Spencer, Jr., Chuck Boyles, George T. Elmore, III., Page Williams, Chuck Lollar.

A quorum was present.

III. APPROVAL OF MINUTES FROM LAST MEETING

No corrections to minutes from the last meeting were made before the minutes were approved.

IV. FINANCIAL REPORT

The Chair reviewed the financial budget and reminded all in attendance to submit their expense reports. There is a tight deadline for requests for reimbursement of June 24<sup>th</sup>. There is a voucher form that must be submitted. You must use a W-9 if this is your first reimbursement. This form should be sent straight to Dolly Shaffner, not the Chair of the Section.

V. MEMBERSHIP

a. New Nominees

- i. Paula Caplinger nominated Karen Cohen and Christy Murphy from the Norfolk office of Kaufman & Canoles, as new nominees for area representatives.
- ii. Doug Dewing nominated Otto Konrad from Williams Mullen in Richmond as area representative. Mr. Konrad has prepared our case law summary for many years.
- iii. Bill Nusbaum nominated Cartwright Reilly, who is in Williams Mullen's Virginia Beach office.
- iv. A vote was taken and all were elected.
- v. The Chair reminded the new representatives to join a committee of the Section.

VI. THE FEE SIMPLE

Stephen Gregory reported the following regarding the publication:

- a. Mr. Gregory has received a comment regarding the ethics of offering reissue rates on title insurance policy. The comment noted that the information in one of the recent articles could be out of date. Mr. Gregory will look into it.
- b. In the Spring issue, the publication usually has a legislative update from Pia Trigiani, but she needs help to do it now because her schedule no longer permits her the time. Mr. Gregory explained that Ms. Trigiani could still provide the bill list, but we need people to help with the summary. Mr. Dewing suggested that we rerun the materials that VA CLE has. Mr. Gregory stated that VA CLE may be reluctant to allow us to do that. Mr. Nusbaum noted that Phil Abraham at Vector Corporation generates a list of bills that they track, and we may be able to work out something with Vector to get that information. However, Vector is a lobbying firm, so there may be a conflict with our group in paying the lobbying firm to do this. Mr. Gregory noted whether we needed the legislative history or just a summary of the bills. The Chair suggested that the officers talk to Dolly Shaffner about whether our Section could pay for assistance with this matter. Mr. Gregory said he would talk to Ms. Trigiani about what she would be able to provide, and then the Section can figure out what to do from there. Ms. Caplinger suggested that our Section reach out to the VBA and see if we can reprint the VBA summary of bills.
- c. Mr. Gregory reported that the student assistant will return for one more year with the Fee Simple.
- d. Mr. Gregory reported that it is still early for the Fall publication, but he could use additional articles at this point. Deadline is the first Friday in October.

VII. CLE PROGRAMS DATES AND SOLICITATION OF TOPICS

The Chair noted that both seminars this year were a success. Ms. Caplinger noted that attendants seemed to like the Williamsburg Lodge, so the plan is to have the Advanced Seminar there again. She also noted that they are currently looking for topics, and will have a brain storming sessions after the September meeting in Charlottesville.

#### VIII. UNFINISHED BUSINESS

- a. Mr. Biggs reported that there was a meeting regarding third party opinion letters, but is not sure what the final result will be, yet.
- b. The Chair revisited the idea of term limits for Chairs of subcommittees, and noted that three years was about the limit for most who serve. Ms. Creasman said the problem is that usually it is difficult to find replacements. The Chair noted that the new subcommittee chair for Land Use and Environmental is Lori Schweller. In addition, Paul Melnick stepped down as the Chair of the Ethics committee, and Ed Waugaman has agreed to replace him.
- c. The Chair noted that the Judicial Liaison has still not been filled, but that is something that the new Chair can continue to work on next year.

#### IX. NEW BUSINESS

- a. Standing Committee:
  - i. Technology – Mr. Graybeal reported that security is still the most important issue in technology. He also noted that the minutes from the Section Board of Governors and Area Representative meeting are accessible on the website, and the website it getting numerous hits.
  - ii. Programs – no additional report
  - iii. Membership – Mr. Wiley noted that we need to make sure that our connection with VACLE does not diminish now that Nancy Kern is retiring. Jay Steel at the University of Richmond stepped up to be the full time instructor for the real estate transactions and finance class while the professor was out, and he did a great service for in stepping up in this capacity. The professor is now back, and the class is going to be taught in the fall, instead of the spring. Mr. Wiley will be heading that up this year. He may tap members of this Section to speak.
  - iv. Fee Simple – Mr. Gregory again asked for article ideas, and he noted that he needs more reports from committee meetings. He also suggested we might consider publishing the Board of Governors minutes. The Chair said the group may talk to Ms. Shaffner about this.
- b. Substantive Committees
  - i. Title Insurance – Ms. Creasman reported that she has three articles for the Fee Simple and three seminar topic ideas.

- ii. Residential – Ms. Meier’s reported that the rules regarding lay settlement agents have changed in that all closings are subject to the rules, not just residential. She noted that the group should read her report for more specifics.
  - iii. Land Use and Environmental – Ms. Schweller went through the roster to determine who wanted to remain a part of the committee. Andrew Painter and Maxwell Weigard are new members. There are some issues dealing with proffer policies and new legislation. She also noted that short term rentals and wine and breweries are hot topics.
  - iv. Ethics – Mr. Melnick noted that the group should review his report, especially regarding indemnities in settlements, dealing with lay settlement companies, and new surveys versus old surveys with survey affidavits.
  - v. Eminent Domain – Mr. Lollar reported that there are procedural issues that are of interest and core property issues are being raised in the pipeline cases. The issue of pre-condemnation entry on the property is a hot topic, and whether it constitutes a taking, particularly when they are taking significant samples and e items of cultural interest and not identifying or returning them. He said to take a look at Virginia Code §56-29.1. Judge Dillon ruled on this issue in Charlottesville. Another common issue is property owner association property, and the process by which that can be condemned.
  - vi. Creditor’s Rights and Bankruptcy – Mr. Biggs noted that they are looking for new members of this committee, especially real estate/lien lawyers. The members of the committee are interested in doing a CLE, probably a survey of lien enforcement, such as foreclosure, UCC foreclosure, and judgment liens.
  - vii. Common Interest Communities – No report.
  - viii. Commercial Real Estate – No report.
- c. SCC Order Adopting Regulations – Ms. Meier already reported as part of residential report.
  - d. Recent case decisions – no additional comments.
  - e. Items from the Floor - Mr. Gregory noted the changes to Virginia Code §38.2-1802 that the business entity that has an agency license for title insurance is responsible for making sure that all agencies comply with all laws. Ms. Creasman noted that attorneys need to be aware of this, too.

X. CHAIR’S COMMENTS – The Chair thanked the group for a good year.

XI. REPORT ON NOMINATING COMMITTEE & ELECTIONS

- a. The nominating committee met by conference call on May 3, 2016.
- b. Mr. Gregory and Ms. Creasman agreed to serve for a second term on Board.
- c. Lori Schweller will take Paul Melnick’s director position on the Board. The Chair presented a plaque to Mr. Melnick for his service.
- d. A motion was made, seconded and a vote taken to elect the above nominations.

- e. Current Vice-Chair, Lewis Biggs, agreed to stand for Chair. Current Secretary, Whitney Jackson Levin, agreed to stand for Vice-Chair, and Kay Creasman agreed to become Secretary/Treasurer.
  - f. A motion was made, seconded and vote taken to elect.
  - g. A gift was presented to Lewis and Susan for their work as Chair and Vice-Chair.
- XII. Next meeting is in September in Charlottesville, Virginia at a date and time to be determined.