

**VIRGINIA STATE BAR
REAL PROPERTY SECTION**

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

September 13, 2013
Richmond, Virginia

Pursuant to due notice, the Fall meeting of the Virginia State Bar ("VSB") Real Property Section Board of Governors and Area Representatives convened at 10:30 a.m., September 13, 2013, at the offices of Williams Mullen, 200 10th Street, Suite 1600, Richmond, Virginia. Section Chair, William L. Nusbaum, presided, and Secretary/Treasurer, Susan Walker, recorded the minutes. Also present, in person, by teleconference or by video conference, were Vice Chair Cooper Youell, Kay Creasman, Ken Dickinson, Whitney Levin, Paul Melnick, Paul Bellegarde, Randy Howard, Christina Meier, Grice McMullan, Susan Siegfried, Chuck Lollar, Ron Wiley, Howard Gordon, Rick Chess, Philip Hart, Ben Lay, Larry McElwain, Lewis Biggs, Page Williams, Doug Dewing, Stephen Gregory, Susan Pesner, Mark Graybeal, Paula Caplinger, Kathryn Byler, Andrae Via, Michael Barney, Mark Williamson, Jean Mumm, Harry Purkey and Stephen Romine.

I. Welcome. The Chair called the meeting to order and welcomed those participating.

II. Approval of Minutes. The Chair presented the minutes of the Annual Meeting of the Section and Summer Meeting of the Board of Governors and Area Representatives held on June 14, 2013, as well as the minutes of a Special Conference call Meeting of the Board of Governors held on August 22, 2013, and asked for any corrections, modifications or comments. Hearing none, Mr. McMullen moved for both sets of minutes to be adopted as drafted, and Ms. Meier seconded the motion. Ms. Levin asked that the minutes of the Special Conference Call Meeting Minutes be amended to correct her last name, erroneously shown as Jackson. The minutes of the Annual Meeting and the minutes of the Special Conference Call Meeting, as amended, were unanimously approved. Copies of the approved minutes are filed in the Minute Book.

III. Financial Report. The Chair noted that the Section spent \$215.89 during the month of July, not unusual, since our budget is back-loaded. There were no comments from Board Members or Area Representatives regarding the financial report.

IV. Membership Report. The Chair noted that the section ended the year as the fourth largest section, with membership of approximately 1800.

V. New Area Representatives. Membership Co-chairmen, Phil Hart and Larry McElwain, having submitted a written report of a telephone meeting of the Membership Committee, did not elaborate further on the matters contained in their report. No new area representatives were proposed for appointment. The Chair noted that, due to the strengthening real estate market, now would be the time to increase recruitment efforts.

VI. CLE Programs.

- a. Advanced Seminar. Nancy Kern of Virginia CLE, who was to give an update regarding the Advanced Seminar, was ill, so Mr. McElwain gave a brief update in her stead. The dates of the seminar are March 7 and 8, 2014, at Kingsmill Resort. Topics of interest to the membership were solicited. There are eight speaking spots to fill. The Chair noted that, in the first crisis of his chairmanship, due to the closure of La Yaca, a new restaurant for the Friday night dinner and Traver Award presentation is needed.
- b. Annual Real Estate Practice Seminar. Topics of interest were solicited, in addition to the case law and statutory updates.
- c. Annual Meeting Program. The secretary reported the desire to conduct a joint program with the Trust and Estates Section to address "transfer on death" deeds and other topics of joint relevance. The Chair urged the secretary to secure a commitment from the leaders of the Trust and Estates Section before the meeting of section chairs scheduled to occur the week following the Fall Meeting.

VII. The Fee Simple.

- a. Fall Issue. Mr. Gregory stated that no articles had been submitted for the Fall issue of the Fee Simple, and the deadline is October 11th. The Chair stated that one of the duties of the subcommittee chairs should be to provide an article once a year. A discussion of potential article topics ensued. Mr. Biggs indicated a bankruptcy related article is in process. At the request of Mr. Gordon, Mr. Lollar agreed to provide an article on the Supreme Court's ruling against Norfolk Redevelopment and Housing Authority in the condemnation cases regarding the last three property owners who were refusing to sell their property for ODU's proposed University Village. Mr. Youell proposed publishing a summary of the information presented at the Annual Meeting, but Mr. Gregory cautioned that it might make the issue too heavy on condemnation material and, further, that Virginia CLE would have to give permission to publish any material emanating from one of its seminars. Ms. Pesner suggested that an abstract of the seminar could be published as an encouragement to attend future seminars. Regarding an article on the impact of the Defense of Marriage Amendment, the chair and Mr.

Dewing offered to provide Mr. Gregory contact information for suitable authors. Ms. Pesner expressed interest in an article concerning efforts by a California town to condemn over-mortgage properties. Mr. Hart noted the impact of such action on the rating of residential mortgage-backed securities. Mr. Dewing inquired if Mr. Hart could locate an article approaching the topic from that perspective. Later in the meeting, Ms. Pesner noted that that electronic recording is now being used in Fairfax, and she and Mr. Graybeal offered to write a Fee Simple article on this subject.

- b. Student Assistant. Mr. Gregory reported that advertising for a new student assistant is taking place at William & Mary, but so far no one suitable has applied. The advertisement has so far been limited to William & Mary, so the student assistant could have access to Dean Butler for advice. With no good applicants thus far from William & Mary, Mr. Gregory suggested that applicants could be sought from other law schools nearby to William & Mary. Mr. Chess offered that the dean of the University of Richmond law school would be supportive of efforts to recruit an assistant there, as he is trying to place students with firms. Ms. Caplinger suggested advertising at Regent University, which is even closer to Williamsburg.

VIII. Unfinished Business.

- a. SharePoint Web Portal. The Chair reported with regret that the Bellegardes' web portal model cannot be accommodated by the State's procurement system. Thus, he suggested approaching Katja Hill, the VBA real property section chair, to propose that the VBA undertake the web portal. The incentive for the VBA would be increased exposure and a potential for increased VBA section membership. Mr. Bellegarde recalled that the goal was to provide the web portal as a benefit to members of the section; however, he has been unable to overcome the Bar's objection to section-sponsored websites. Further, the Bar has not been receptive to any plan by which the Bar itself would sponsor the portal. Mr. Dewing commented that the VBA may already have a list serve through Washburn University, but there is not much traffic.
- b. Budget Surplus. The Chair recapped the decision made during the August 22nd conference call meeting to use the budget surplus to subsidize Section members' tuition for the Advanced and/or the Annual Practice seminars. The Chair noted that subsidizing seminar registration spreads the benefit of the budget surplus more widely throughout the section than would a VACLE book credit. The impact of the discount will not affect attendance at the Advanced Seminar, which sold out this year. Discussion regarding Advance Seminar attendance ensued. Suggestions included finding a bigger venue, raising the price to drive down attendance, and/or accommodating more registrants by having an overflow room

with video monitors and a microphone for participation in live discussion. It was agreed that Mr. McElwain would explore these options with Ms. Kern.

IX. New Business.

a. Committee Reports.

i. Standing Committees.

A. Membership. The Membership Committee's report of its September 10, 2013 conference call meeting was circulated prior to the meeting. Committee co-chair, Mr. Hart, recapped the Committee's ideas for increasing membership, including: give new Bar members free membership for one year; provide law students free attendance at the Section's seminars; use the law school liaison outreach a recruitment tool; write a letter to those who may have recently dropped out of the Section (ask Bar for a list of names) to find out why and ask them to reconsider, highlighting the seminar discount.

B. Technology; Mr. Dewing's e-mail of September 11, 2013, summarizing the position of the Technology Committee was circulated prior to the meeting. Mr. Dewing moved to terminate the Technology Committee, and Ms. Pesner seconded the motion. In the ensuing discussion, Mr. Dewing argued that technology is not an isolated matter but spans all aspects of our industry, and so each substantive committee should address developments pertinent to itself. Mr. Gregory expressed appreciation for Mr. Dewing's service, but countered that because technology now drives our industry, the Technology Committee is more timely and relevant than ever and should not be disbanded. He asked whether anyone else could take over the committee. It was further discussed that keeping up with new developments in technology requires more time and expertise than anyone on the committee has to offer. The Chair agreed in his column in the next Fee Simple to solicit someone with expertise and time to lead the Section's technology committee.

ii. Substantive Committees.

A. Commercial Real Estate. The Committee's report of its September 10, 2013 teleconference meeting was circulated prior to the meeting by Chair Whitney Jackson Levin.

- B. Creditors' Rights and Bankruptcy. A report of the Committee's September 11, 2013 meeting submitted by Chair Lewis Biggs was circulated prior to the meeting.
 - C. Eminent Domain. Mr. Lollar reported that the Committee has not yet met. At the top of the Committee's agenda is to have the eminent domain pamphlet disseminated. The dissemination has been delayed because the pamphlet had to be updated in light of the constitutional amendment. Once updated, it has had to go back through the Bar's publication committee for approval. Mr. Lollar asked about the availability of funds for publication. The pamphlet would be placed in libraries around the State and would be in answer to VDOT's publication. Mr. Lollar further reported on draft model Bills to address procedural problems entailed in distribution, including notice issues pertaining to secured lienholders.
 - D. Ethics. The Committee's report of its September 11, 2013 teleconference meeting submitted by Chair Paul Melnick was circulated prior to the meeting. Mr. Melnick indicated the committee aimed to provide an article for the Fall Fee Simple addressing the ethical ramifications of Google's announcement of no reasonable expectation of privacy for e-mails. Mr. McMullan is working on an article be written exposing a scam where fraudulent cashier's checks for large amounts drawn on fake foreign bank accounts are deposited with attorneys in connection with real estate transactions.
 - E. Law School Liaison. Committee Chair Paul Bellegarde's report of the actions of the committee was circulated prior to the meeting.
 - F. Land Use and Environmental. No written report was submitted; however, Committee Chair Steve Romine offered that the committee wants intends to present a topic for the annual practice seminar this year.
 - G. Residential Real Estate. No report.
 - H. Title Insurance. No report.
 - I. Common Interest Communities. No report.
- X. Chair's Comments. In conclusion of the meeting, the Chair reiterated his three goals for the Section as articulated at the August 22, 2013 Conference Call Meeting. These goals are the growth the section membership, the facilitation of exchange of real estate advice amongst colleagues over the internet through a web portal, and the conversion of budget surpluses into value for the Section.

- XI. Next Meeting. The Chair announced that the next meeting will be held on Friday, January 24, 2014, at 2:00 p.m. at the Williamsburg Inn. The exact time and meeting room will be confirmed or amended at a later date. Conference calling will be available for the meeting.
- XII. Adjournment. There being no further business, the Chair adjourned the meeting at approximately 11:50 a.m.

Respectfully submitted,

/SSW/

Susan S. Walker,
Secretary/Treasurer

APPROVED:



William L. Nusbaum, Chair