

**VIRGINIA STATE BAR
REAL PROPERTY SECTION**

**MINUTES OF THE FALL 2015
MEETING OF THE BOARD OF GOVERNORS
AND AREA REPRESENTATIVES**

I. CALL TO ORDER

Susan Walker, Section Chair, called to order the Fall 2015 Meeting of the Virginia State Bar Real Estate Section Board of Governors and Area Representatives at 10:30 a.m. on September 18, 2015 at the offices of Virginia CLE, 105 Whitewood Road, Charlottesville, 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, Kenneth Dickinson, Christina Meier, Cynthia Nahorney, Larry McElwain, Hope Payne, Sarah Louppe Petcher, George Hawkins, Ronald Wiley, Jr., Stephen Wood, Blake Hegeman, Randy Howard, Lori Schweller, Jim Johnson, Nancy Kern, Rick Chess, F. Lewis Biggs, J. Philip Hart, Howard Gordon, Douglas Dewing, Alyssa Embree, William Nusbaum, Matthew White, Pamela Fairchild, Rosalie Doggett, Stephen Gregory, Jeremy Moss, Paul Melnick, Cooper Youell, C. Grice McMullan, Jr., and Stephen Romine. 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:

- A.** Randy Howard noted that he did attend the last meeting in June and needs to be added to minutes.
- B.** Section 12 of June Minutes recited in the last paragraph that William Nusbaum was given a plaque but it was Cooper Youell who was given the plaque.
- C.** A motion was made to ratify the vote taken at the June meeting to elect Whitney Levin to Board of Governors. The motion was seconded and the vote passed unanimously.

IV. FINANCIAL REPORT

The Chair reviewed the financial budget and reminded all in attendance to submit their expense reports, and that there is going to be a new procedure for reimbursements from the Bar.

V. MEMBERSHIP

- A.** New Nominees - Connor Childress, Hope Payne, Jim Johnson, Tara Boyd, Matthew White were all nominated to be Area Representatives. A vote was taken and all were elected.
- B.** First Day Practice Seminar – The Seminar will take place on Dec. 1, 2015 in Richmond. The Real Estate Section has started participating in the program again. Kay Creasman, Beth Godwin Jones and Philip Hart spoke at last year’s seminar. Mr. Hart made a call to the group for members to participate in this year’s program and pointed out that Ed Waugaman is the moving force behind this program and thanked him for his work.

VI. THE FEE SIMPLE

Stephen Gregory reported the following regarding the publication:

- A.** Fall Deadline - Oct. 9th is the Fall submission deadline. Mr. Gregory stated that he has a few article commitments but is not sure how many will be ready by then. The deadline is a soft deadline so if anyone needs more time, they should let him know.
- B.** Student Assistant – The publication has extended an offer to a 2L at William & Mary College of Law. There were only two applicants this year, and Mr. Gregory is unsure of the reason for that. He has considered the prospect of offering the position to students at other schools and may do that next year. Derek Vanderwall is the student who accepted position for this year. One attendee asked whether it is acceptable for the student to be located in a different location than Williamsburg, and Mr. Gregory indicated that would be fine. Mr. Nusbaum noted that the last meeting’s minutes mentioned the idea of broadening the school from which students are selected, and it was noted that the benefit of having the student at William & Mary was the Dean’s presence. The commitment is usually a two year job.
- C.** Spring Deadline – The Spring submission deadline will be the end of March 2016. However, because of legislative articles, it may be moved back to allow sufficient time for articles to be included.

- D. Stephen Gregory noted that the Supreme Court of Virginia issued its decision in REVI, LLC v. Chicago Title Insurance Company, and that attendees may want to review it.

VII. CLE PROGRAMS DATES AND SOLICITATION OF TOPICS

The Chair updated the attendees on the following seminars and noted that specific article topics would be discussed over lunch.

- A. Advanced Seminar – The Advanced Seminar will take place the first weekend in March on Friday and Saturday at Williamsburg Lodge, instead of the Kingsmill.
- B. Annual Seminar – The Annual Seminar has not been planned, yet, but will take place in May 2016.
- C. Summer Meeting Showcase CLE – At the Summer meeting of the Virginia State Bar in June 2016, the Real Estate Section has the opportunity to sponsor a Showcase Seminar. The Chair discussed a list of possible showcase CLE topics from the BAM committee. The Bar only wants broad CLE topics, and it does not want smaller section specific CLE programs. None of the topics on the list from the Bar have anything to do with Real Estate. Lewis Biggs noted that if we do not take a leadership role in the planning, then we will end up with topics that have little to do with real estate. Christina Meier noted that the only topic listed that might be of interest to our members was the Cyber Security topic. The Chair noted that the Legal Zoom topic may be interesting as well. As Secretary, Whitney Levin is responsible for planning this with the other sponsoring sections. There is an Oct. 9 deadline for submission of topics.

The group came to the conclusion that the Section will pursue a seminar topic with the Business Section and Trusts & Estates Section. It was noted that the Section may want to try to get one of its members on the BAM committee in the future. It was also noted that the Section should focus on trying to raise attendance at the Summer meeting, and that cost is a probable cause for low attendance. This might be feedback that our members should give to the Bar.

VIII. UNFINISHED BUSINESS

- A. Fee Simple Editor's Compensation – The Chair suggested a compensation for the Editor of *The Fee Simple*, and asked Mr. Gregory if he had put anymore thought into it. Mr. Gregory stated that he will think about it and let the group know, and noted that the student assistant is paid \$15 an hour, and that the Editor's obligations are greater than that. However, he recognizes that it has generally been a volunteer position. The Chair noted that as the product improves, then compensation for the Editor is something the Section has to consider, and that a flat number or stipend might be most appropriate. The Chair will talk to Dolly Shaffner at the VSB and come up with a proposal. Mr. Nusbaum suggested that the Chair check the bylaws to determine if they address payment to members. Mr. Gregory stated that he does not really keep track of the

hours he devotes to the publication, but that the student editors usually put in about 25-40 hours per issue, so he probably does twice that. The Chair noted that Article 6, Sec. 3 of the bylaws states that no pay shall be paid to members of the section in his or her capacity as an officer or member of Board of Governors, but does not address work on the publication.

- B. Section Web Presence – The Chair noted that the Section’s web presence was discussed at the Summer meeting, and that Mark Graybeal had addressed this in his technology report. The Chair noted that the problem with having a web presence is that a member of the Board has to monitor any site that the Section may have, and most likely no one wants that responsibility. Sarah Petcher stated that she is willing to start up a Facebook page, which the Chair stated she would pass on to Mark Graybeal.

IX. NEW BUSINESS

A. Standing Committees (see written reports for Fee Simple, Membership & Technology)

- i. Membership – Philip Hart corrected that the First Day seminar is December 1, 2105, not the 4th. In addition, the Bar has asked this Section to present a second segment on Landlord Tenant disputes.

B. Substantive Committees

- i. Commercial Real Estate – Rick Chess reviewed the issues presented in his report and noted that Allison Harter with LeClair Ryan is a new member of the committee, but is not an area representative.
- ii. Common Interest Community - Jeremy Moss is the new chair and should hold his first conference call in next few weeks.
- iii. Creditors Rights – Lewis Biggs reported that the committee has an article in the works.
- iv. Eminent Domain – Chuck Lollar was not in attendance.
- v. Ethics – Paul Melnick reminded the group that he recommends using the ethics link on the VSB website. The Chair noted the conflict that has come to her attention is that CRESPA requires individual attorneys to register, but lender vetting companies want the firm, not the individual attorneys, to be the approved entity. Our Section needs the VSB to tell us whether it is acceptable that attorneys are including the firm name on settlement statements when the firm is not the CRESPA certified party.
- vi. Law School Liaison – Ron Wiley stated that Jay Steele from Hirschler Fleisher will be teaching the real estate transactions and finance class at University of Richmond. Steve Romine will be teaching the Land Use class at the same school.
- vii. Land Use – Steve Romine discussed the class he was teaching (see above).
- viii. Residential – Christina Meier reported that she needs someone to take on jurisdictional differences between the Clerk’s Offices throughout the state. There are issues with rejecting documents and differences in coversheets,

recording topics, etc. She also directed the attendees to her report where she addresses (1) the Evans vs. Evans case, which addresses severing tenants by the entirety with one spouse's signature and (2) the Deutsche Bank case (see her report for details).

- Bill Nusbaum suggested the need to reach out to the chair of the VBA Real Estate Council and see if it is an issue that group can address. Larry McElwain reported that this is already on the radar of the VBA, and the group has worked on annual attempts to address this and had no luck. It is going to take years to address, but VBA will keep trying. Doug Dewing reported that there are approximately 132 jurisdictions in Virginia. Larry McElwain suggested putting together a survey of how each Clerk's Office functions.

- Grice McMullan mentioned that the best way to deal with this is for members to start emailing differences to a central person and once we have a list, then we can decide how to deal with it. Mr. Nusbaum suggested that such person assemble a survey, and the first recipient of that survey would be the Board of Governors and Area Representatives of the Section.

- Ken Dickinson mentioned that the judgment release form has changed with respect to partial and full release language. Jim Johnson noted that the new forms are now on the court system website.

ix. Title Insurance – no additional report.

C. Suggestions for New Judicial Liason – The Chair noted that the bylaws require a judicial liaison for the Section and had a call for suggestions. Judge Delk was the last liaison. Judge Jane Rauch also used to attend. It can be a retired or sitting Judge of any court.

D. Items from Floor

- i. Ron Wiley reported that Barbara Goshorn's brother and other family member passed away recently, and since she is a great friend to all of us, he wanted to let the group know, so attendees could express words of support to her.
- ii. Stephen Gregory asked the Chair to ask Committee Chairs whether they want their reports published in the Fee Simple

X. NEXT MEETING AND ADJOURNMENT

Next meeting is January 22, 2016 at 1:00pm probably at the Williamsburg Inn. Lunch will be served. Meeting adjourned at 12:10pm.

Respectfully submitted,

/s

Whitney Jackson Levin, Secretary/Treasurer