

**MINUTES OF THE MEETING OF THE COUNCIL OF THE
REAL PROPERTY LAW SECTION
OF THE STATE BAR OF MICHIGAN**

DECEMBER 9, 2020 AT 12:00 PM

Zoom Meeting

<https://us02web.zoom.us/j/81285353962?pwd=YWpCaU1GTnM2OUltN2o4b2haT1FnQT09>

An on-line meeting of the members of the Council of the Real Property Law Section was called to order at approximately 12:00 PM. Chairperson King confirmed that a quorum of voting members was present.

Present:

<u>Council Members</u>		<u>Past Chairs</u>	
<u>In Person</u>	<u>Zoom</u>	<u>In Person</u>	<u>Zoom</u>
	Lorri B. King (Chair) Brian P. Foley John Gaber Gregory J. Gamalski Thomas A. Kabel Leslee Lewis Jason C. Long (CLE) Michael A. Luberto Brandy Mathie Brian Page (Land Title) Dawn M. Patterson J. Scott Timmer		Brian Henry David Nykanen Jerome Pesick Ronn S. Nadis Nicholas Scavone Kim Shierk
		<u>Section Administrator</u> Karen Schwartz	
		<u>Other Attendees</u>	
	Cathy LaMont (Immediate Past Chair)	Scott O'Neill Dan Byrne Tim Bliss John Bartley Melissa Papke Patricia Paruch Pete Webster	Andrew Gerdes Howard Lax Richard Sundquist Erica Payne Cathy Riesterer Jeff Gallant

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Chairperson King welcomed CLE Committee members, Special Committee Co-Chairs, and Legislative & Publications Committee members.

Approval of Minutes:

Chairperson King proposed unanimous consent of the minutes from the November 18, 2020 Council meeting. J. Scott Timmer moved to support the Motion and Jason Long seconded the Motion. No members raised an objection, so the Motion passed unanimously.

Consent Agenda:

Chairperson King proposed unanimous approval of the Consent Agenda as to the following reports: Administrative, Committee on Committees, Membership Committee, Michigan Electronic Recording Commission, Pro Bono Committee, Publications Committee, Sponsorship Committee, and Technology Committee.

Chairperson King moved to approve and receive the Consent Agenda without discussion. Greg Gamalski moved to support the Motion and Tom Kabel seconded the Motion. No objections were raised so the Motion to approve and receive the Consent Agenda without discussion passed unanimously.

Standing Committee Reports:

The following Standing Committee reports were discussed:

Budget and Finance Committee:

Dawn Patterson presented the Budget and Finance Committee Report. She noted that the September 2020 financials are attached to the agenda, and that we are awaiting the results of the fiscal year audit.

Continuing Legal Education (CLE) Committee:

Jason Long presented the CLE Committee Report. He highlighted specific points in his report.

I. Summer Conference 2021 (Brandy Mathie and Cathy Riesterer)

Jason reported that Brandy and Cathy are having difficulty getting potential presenters to commit to an in-person conference. The CLE Committee discussed holding a remote conference. While the Committee thought that the Section should hold the conference remotely, it is not yet recommending that to Council. The CLE Committee will continue to explore options for the Conference.

II. 2020/2021 Groundbreaker/2021 Real Estate Outlook (Scott Lesser)

The “Groundbreaker 2021 Real Estate Outlook” program was held remotely on November 17. Jason reported that we had good attendance, and the program was a success.

III. “Ask the Expert” Program

Jason advised that the Condominium Committee presented an “Ask the Expert” remote program in November.

Another program is scheduled for next week, sponsored by the Leasing Committee. So far, we have about 40 registrants.

IV. Homeward Bound (Jessica Hallmark)

The Homeward Bound program will be held remotely on Thursday, January 28. Jason informed the Council that information about recent legislation will be presented by Tom Kabel, Tabitha Zimney will discuss proposed legislation, and another representative from Karoub will give an update on executive orders. Registration will be available soon.

V. Homeward Bound (Brian Foley)

Since the Winter Conference will not be occurring, another Homeward Bound program be held remotely in March. Alex Dieck of Bodman has agreed to present a case law update, and Nick Scavone will discuss the status of amendments to the Marketable Record Title Act.

VI. Real Property Law Academy I (Mike Luberto)

The CLE Committee discussed holding the Academy remotely, since some of the faculty have advised that they will only participate if remotely. Mike Luberto was charged with asking law firms if they prefer we hold the program over two days, or four. Three responses have been received; one said it didn't matter, one said two days, and the third was in favor of four days.

Legislation Committee: Tom Kabel presented the Legislation Committee Report for review and discussion.

1. Monthly Call. The Committee cancelled the call scheduled for Monday, December 7, 2020, given the lack of any recent legislation to discuss.

2. Recent Developments:

A. Tax Foreclosure Amendments. Despite Council's position to oppose Senate Bill 1137 unless certain requested revisions were made [see November Legislative Report], both SB 1137 and SB 676 were passed by the Senate on December 3, 2020, without having incorporated those changes. The Section's lobbyist will reiterate the Section's opposition at the pertinent House committee meeting.

B. Marketable Record Title Act. The bills amending the MRTA will not be acted upon this year. A bill extending the March 2021 date for another three years has passed the House and is currently sitting in the Senate.

C. Electronic Transactions/Notary Package. Senate Bills 1186 – 1189 (which extend the sunset date for the various electronic transaction's bills from December 31, 2020, until June 30, 2021) were passed by the Senate on December 3 and have gone to the House for consideration.

D. Other. Tom reported that:

- Legislators can re-introduce 10 bills next session.
- SB1246 has been introduced, extending the sunset date for the Open Meeting Act Amendment, which is not yet extended.
- The exclusionary zoning bill has been re-introduced. It is uncertain if there will be any movement on it this year.

- HB6454, regarding Headlee Act amendments has been introduced. Also, not sure if there will advance this year.

New Business

- Amicus Brief Invitation - *Township of Fraser v Haney*.

This is the first of two Michigan Supreme Court requests for an *amicus* brief. Chairperson King indicated that it seems more of a procedural issue. J. Scott Timmer said that it is, as relates to a possible six-year statute of limitations against municipalities and zoning violations. The statute of limitations was not raised as affirmative defense, but the failure to raise it as an affirmative defense was not plead by the Township. The property owner has prevailed so far. The property owner is subject to the statute of limitations; should the municipality be subject to it? Since the Supreme Court has asked for the Section's input, we should respond somehow. Jason Long opined that the statute of limitations should apply equally. Cathy LaMont asked if we should submit a brief, or if we can respond summarily. Chairperson King opined that we could respond summarily. Jason Long advised that we have sent a letter before, declining to weigh in. Cathy LaMont moved that the Section submit a reply that the statute of limitations should apply equally. Greg Gamalski seconded the motion. The motion was approved with 13 in favor, zero opposed and zero abstentions out of 13 voting members in attendance of a total of 17 voting members.

- Amicus Brief Invitation – *Campbell v Treasury*

This is the second case in which we've been asked to submit a brief. The question is what is the effective date of a loss of a principal residence exemption; December 31, or the date a principal residence exemption was granted by another state? Jason Long provided background and procedural information. A Michigan homeowner bought a house in Arizona, which granted a principal residence exemption without the owner requesting it. Jason Long moved that the Section should accept the Michigan Supreme Court's invitation to file a brief. Greg Gamalski seconded the motion. The motion was approved with 13 in favor, zero opposed and zero abstentions out of 13 voting members in attendance of a total of 17 voting members.

The next Council meeting is Wednesday, January 13, 2021 at noon.

The meeting was adjourned at 12:40 pm.

Respectfully submitted,

Michael A. Luberto, Secretary