

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

APRIL 14, 2021 AT 12:00 PM

Zoom Meeting

<https://us02web.zoom.us/j/88593574232?pwd=ektsVjRkSHNaeld4ODVsYTM3ZWs0Zz09>

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) Steve Estey Brian P. Foley John Gaber Jessica Hallmark Thomas A. Kabel Leslee Lewis Jason Long Michael A. Luberto Brandy Mathie Brian Page (Land Title) Dawn M. Patterson J. Scott Timmer Roxana Zaha		Brian Henry Mark Krysinski David Nykanen Ronn S. Nadis Kim Shierk Nicholas Scavone
		<u>Section Administrator</u> Karen Schwartz	
		Other Attendees	
	Cathy LaMont (Immediate Past Chair)		

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Chairperson King welcomed Special Eminent Domain Committee Co-Chair Peter Webster.

Approval of Minutes:

Chairperson King proposed unanimous consent of the minutes from the February 10, 2021 Council meeting. Michael Luberto moved to support the Motion and Brandy Mathie seconded the Motion. No members raised an objection, so the Motion to approve the minutes without discussion 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. Leslee Lewis moved to support the Motion and Thomas 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.

Income:

1. GB Outlook 2021 income of \$1615 (65 @ \$25/registrant)
2. Jan. Homeward Bound Income of \$1,300 (52 @ \$25/registrant)
March Homeward Bound Est. Income of \$3,000 (120 @ \$25/registrant)
3. Dues Est. Income of \$111,650 (\$55/member) = 2,030 members
Last year Income of \$101,970 (\$45/member) = 2266 members
Income increase of \$9,680 Membership decrease of -236
4. May Academy 1 – 3 firms @ \$1,200 = \$3,600 + 25 registrants @ \$200 = \$5,000 = \$8,600
There are currently 38 registrants, plus attendees from firm registrations.
5. Virtual Summer Conference Estimated Income– 120 registrants @ \$250 = \$30,000 + Sponsorship of \$9,000

Our revised projected income is \$166,640.

Expenses:

1. May Academy 1 – virtual (expenses have been reduced from \$7,500 to \$1,000.
2. Virtual Summer Conference – (expenses reduced from \$57,500 to \$7,500 (virtual event company + SBM registration)
3. Review –Anticipating 1 edition (expenses reduced from \$11,000 for 2 editions to \$6,000 for 1 edition)

Original Expense Projection (10/20): \$201,836

Revised Expense Projection (4/21): \$108,111

Net Income: Original Projection: -\$10,706
Revised Projection: \$57,929

Ending Balance: Original Projection: \$184,528
Revised Projection: \$253,163

Difference + \$68,635

Our financial statements are updated through February 2021.

Continuing Legal Education (CLE) Committee:

Jason Long presented the CLE Committee Report.

I. The next “Ask the Expert” Program will be in June 2021 and is sponsored by the Bankruptcy Committee. We are consistently getting 40-50 participants.

II. Homeward Bound (Jessica Hallmark)

The Homeward Bound program was held remotely on Thursday, January 28. Thanks to Jessica Hallmark, Tom Kabel and Tabitha Zimney, it was a success. 76 participants registered for the program.

Homeward Bound (Brian Foley)

A Homeward Bound program was held remotely on March 25th. Nick Scavone presented on MRTA and Alexandra Dieck of Bodman presented a case law update. Over 120 members registered for the program. Our members have responded to our surveys that they are interested in programming about proposed legislation and the Marketable Record Title Act.

III. Real Property Law Academy I (Mike Luberto)

The Academy will take place virtually on May 18-21, 2021 with a four-day Zoom program to run from 9 a.m.-noon each day. Three law firms have agreed to participate at \$1,200 each. We also have 38 additional attorneys registered.

IV. “Virtual” Summer Conference 2021 (Brandy Mathie and Cathy Riesterer)

Brandy and Cathy have done an excellent job putting together a three-day virtual Summer Conference program. The CLE Committee agreed to recommend to the Council that the conference be virtual, since we can cancel the Grand Traverse contract without a penalty, due to Covid restrictions still in place 90 days prior to the conference. Following the CLE meeting, the original virtual events company backed out and we received a proposal from another company for \$6,500. The Technology Committee is recommending to the Council to accept the new proposal.

A motion was made to cancel the contract with Grand Traverse and accept the proposal from the new virtual events company. Leslee Lewis moved to support the Motion and Jason Long seconded the Motion. No members raised an objection, so the Motion to approve without discussion passed unanimously.

V. 2021/22 Groundbreaker/2022 Real Estate Outlook (Scott Lesser)

The “Groundbreaker 2022 Real Estate Outlook” program will be held on November 11, 2021 at the DAC. Scott is currently planning this program, to be held in-person.

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

1. Monthly Call. The ad hoc Legislative Committee met via conference call on Monday, April 12, 2021, to discuss recent legislation.

2. New Proposed Legislation. Of the recently introduced legislation impacting real estate, the following is the only bill the Legislative Committee is currently reviewing for potential action by Council:

- Prohibited Restrictive Covenants Act – HB 4416

(<https://www.legislature.mi.gov/documents/2021-2022/billintroduced/House/pdf/2021-HIB-4416.pdf>). This was amended from last session's bill.

NOTE: HB 4416 is like two bills introduced in the prior legislative session (HB 4676 and HB 4677), but has been revised to address some, though not all, of the concerns that Council and other organizations had with those prior bills. The Legislative Committee is reviewing this new bill and will be further discussing at its currently scheduled meeting in May 2021. It allows a grantee on a deed to remove offending restrictions. It also allows condominium associations to remove offending provisions that violate The Fair Housing Act. Tom Kabel is reaching out to our lobbyist to see if this is on a fast track. We opposed the bill last time for 4 reasons. Some of those have been addressed in this bill. Mark Krysinski wisely suggested a dialogue with those backing the bill, to make sure that it does not create other issues.

3. Potential Future Action.

- Marketable Record Title Act – the Section's lobbyist is working to reintroduce a draft of the Section's comprehensive amendment to the Marketable Record Title Act, which was introduced but not passed during the prior legislative session. This continues to be on Tabitha's radar.

5. Pending Legislation; Positions. Except as noted above, none of the current bills on which the Council previously took action have been acted upon.

Another bill that was introduced is an extension of the moratorium on evictions. We have members who would support, and members who would oppose. The State Bar has asked the Section to weigh in. David Pierson has opined that there is a potential temporary takings argument. Chairperson King expressed reticence to take a position because we have members on both sides of the issue. Leslee Lewis shared that permissible evictions are limited (e.g., criminal activity). Nick Scavone asked if the moratorium is limited to residential properties. It was confirmed that it is. Discussion was held about providing comments, without taking a position, including whether we have provided comments without taking a position in the past. It was confirmed that the State Bar is not asking for us to take a position, but to provide comments. Chairperson King volunteered to draft a statement to decline comment and asked if anyone sees issues that we should comment on, we can circle back with the State Bar.

New Business

- a. Amicus Brief -Fraser Twp v Haney

A copy of Jason's well-written brief was included with the materials.

- b. Referral of HB 4181 – Comments are due by April 19th and was previously discussed in the meeting.

- c. Ad Hoc Committee - The Uniform Real Property Transfer-on-Death Act

The Probate and Estate Planning Section asked us to work on this with them. Chairperson King opined that we should investigate this legislation. An overview is included in the materials. A question was raised as to how this is different from ladybird deeds. The difference is that it would be a statute instead of a Land Title Standard. The Probate and Estate Planning Section has already formed a committee. Kim Shierk suggested putting this on the Michigan Land Title Standards Committee agenda.

d. Michigan Bar Journal – Real Property Issue – to be printed in 2022 or 2023. We will need to put someone in charge of this endeavor.

e. ICSC21 – now scheduled in September – Looking for someone on Commercial Leasing Committee to represent RPLS. Matthew Van Dyk is Co-Chairing the program. We are looking for volunteers for the program.

The next Council meeting is Wednesday, May 12, 2021 at noon.

The meeting was adjourned at 12:52 pm.

Respectfully submitted,

Michael A. Luberto, Secretary