

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

MAY 12, 2021 AT 12:00 PM

[HTTPS://US02WEB.ZOOM.US/J/82522666598?PWD=TGFBTG1OctJQcVRAODZlTktDczBxQT09](https://us02web.zoom.us/j/82522666598?pwd=TGFBTG1OctJQcVRAODZlTktDczBxQT09)

Zoom Meeting

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 Greg Gamalski Jessica Hallmark Thomas A. Kabel Aileen Leipprandt Jason Long Michael A. Luberto Brandy Mathie Brian Page (Land Title) Dawn M. Patterson J. Scott Timmer Roxana Zaha Cathy LaMont (Immediate Past Chair)		Brian Henry David Nykanen Ronn S. Nadis David Pierson Jerry Pesick Kim Shierk Nicholas Scavone
		<u>Section Administrator</u> Karen Schwartz	
		Other Attendees	

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Chairperson King welcomed Special Energy Committee Co-Chair Melissa Papke.

Approval of Minutes:

Chairperson King proposed unanimous consent of the minutes from the April 14, 2021 Council meeting. Greg Gamalski moved to support the Motion and Brian Foley 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, 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 Jason Long seconded the Motion. No objections were raised so the Motion to approve and receive the Consent Agenda without discussion passed unanimously.

Pro Bono Committee: Brian Henry reported that the Pro Bono Committee is looking for speakers for a virtual program in June. The program should last 1.5 to 2 hours, and it will focus on helping community non-profit organizations understand how to buy residential properties, including from the land banks. Members interested in participating should contact Brian Henry.

Standing Committee Reports:

The following Standing Committee reports were discussed:

Budget and Finance Committee:

Dawn Patterson presented the Budget and Finance Committee Report.

Income:

Dawn reported that even though our membership has decreased by 20 members, our income has increased because of the increase in dues, and the decline in membership slowing down.

The May Academy 1 is anticipated to generate approximately \$15,600.00.

Our virtual Summer Conference is estimated to produce \$30,000 in registration fees, and \$8,500 from sponsors.

Expenses:

Our expenses for the virtual Academy 1 in May have decreased from \$7,500 to \$1,000.

The Section's expenses for the virtual Summer Conference are expected to drop from \$57,500 to \$7,500.

We are anticipating one edition of the Michigan Real Property Review, resulting in a reduction of expenses from \$11,000 for 2 editions to \$6,000 for 1 edition.

Net Income: Our original projected income was -\$10,706. Our revised projection is \$57,929.

Ending Balance: The Section's initial projected ending balance was \$184,528. The current, revised projected ending balance is \$253,163, which is a positive difference of \$68,635.

Our financial statements are updated through March 2021.

Continuing Legal Education (CLE) Committee:

Jason Long presented the CLE Committee Report.

I. Real Property Law Academy I (Mike Luberto)

The Academy will take place virtually on May 18-21, 2021. We currently have 91 registrants, not including faculty.

Real Property Law Academy II was discussed by the CLE Committee, which agreed that a hybrid program would not be beneficial. It was decided that the Section should reach out to the faculty to see if they prefer the virtual format rather than in person. The Section should also ask Academy I attendees which format they prefer. J.W. Marriott in Grand Rapids extended our contract until 12/31/22. If we do not hold an event by that date, we will not be refunded our \$2,000 deposit. The CLE Committee recommends that Academy II should be in-person or virtual, but not a hybrid program.

II. “Ask the Expert” Program (Tim Bliss)

The Bankruptcy Special Committee will present an “Ask the Expert” virtual program on June 17 from 10-11 a.m. The Commercial Development Committee has agreed to present a virtual program in September.

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

Registration is available for the three-day virtual Summer Conference program. We currently have seven first-timed attendees registered.

IV. Real Estate Outlook 2022 (Scott Lesser)

The CLE Committee agreed to move forward with the Real Estate Outlook 2022 program to be held in-person on November 11, 2021 at the DAC. The CLE Committee resolved that an economic forecast program is preferred, as is a focus on the status of office leasing.

V. Winter Conference 2022

A discussion took place at the CLE Committee meeting regarding whether to move forward with an in-person Winter Conference. After a spirited discussion, the Committee agreed that the small, intimate conference is a great way to network and meet people. Brian Foley agreed to Chair the program. Karen will provide Greg and Lorri with possible options at the next CLE meeting.

The next CLE meeting is scheduled for Wednesday, August 4, 2021.

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 this Monday, May 10, 2021, to discuss recent legislation.

2. New Proposed Legislation. Of the recently introduced legislation impacting real estate, the Committee discussed the following bills for potential action by Council:

- Construction Lien Act Amendment – HB 4668

<https://www.legislature.mi.gov/documents/2021-2022/billintroduced/House/pdf/2021-HIB->

Proposed Action: Oppose Bill for reasons to be presented to Council. The legislation proposes to require that to file a claim of lien, a contractor who is required to be licensed must present the license to the register of deeds or attach it to a claim of lien. If not received, the register would have to reject the recording. This would put too much discretion in the hands of the registers. Aileen Leipprandt voiced her opposition to the bill. She pointed out that there are other protections for homeowners in the act. Brian Page also voiced his opposition to the bill. Tom Kabel reported that he has asked Tabitha for more background on this bill. Tom Kabel moved to oppose the bill; Scott Timmer seconded. The motion was approved with 16 in favor, zero opposed and zero abstentions out of 16 voting members in attendance of a total of 17 voting members.

- Prohibited Restrictive Covenants Act – HB 4416

(<https://www.legislature.mi.gov/documents/2021-2022/billintroduced/House/pdf/2021-HIB-4416.pdf>)

Proposed Action: Oppose Bill for reasons to be presented to Council. Action on this bill also includes companion bill HB4417. This bill was introduced last term in similar format. We previously opposed the bill introduced last session. Remedies proposed in the bill conflict with basic real property law. The Legislation Committee felt that if this appears to be going somewhere, it should be as a part of our proposed revisions to the Marketable Record Title Act. Tom Kable reported that we are having difficulty getting a sponsor for our proposed revisions to the MRTA. Since this bill has 12 sponsors, tying our position to the MRTA might be a way to get a sponsor for our MRTA bill. Discussion was held that the notion that you can strike something from the records is misplaced. Tom Kabel moved to oppose both bills for the reasons stated in the memorandum included in the materials. Greg Gamalski seconded the motion. The motion was approved with 16 in favor, zero opposed and zero abstentions out of 16 voting members in attendance of a total of 17 voting members.

3. Bills of Interest; New Acts. In addition to the bills noted above and those noted on the accompanying Legislative Report for May 7, 2021, the following bills of interest were introduced since the date of the April 2021 Legislative Report:

- Uniform Assignment of Rents Act – HB 4799

<https://www.legislature.mi.gov/documents/2021-2022/billintroduced/House/pdf/2021-HIB-4799.pdf>

This is intended to replace the existing assignment of rents statute. Tom Kabel has asked Tabitha for more background.

Proposed Action: The legislation is under review by the Legislation Committee; no action is required by Council at this time. The Section may send this to some committees for review, as it is uncertain how “uniform” this legislation is.

- Landlord Tenant Act Amendment – SB 0413

<https://www.legislature.mi.gov/documents/2021-2022/billintroduced/Senate/pdf/2021-SIB-0413.pdf>

This would require a landlord to notify tenants within 30 days of receiving a notice of a tax foreclosure.

Proposed Action: No action necessary

- Attainable Housing and Rehab. Act/Res. Housing Facilities Act–HB 4647 & SB 362, 422

<https://www.legislature.mi.gov/documents/2021-2022/billintroduced/House/pdf/2021-HIB-4647.pdf>
<https://www.legislature.mi.gov/documents/2021-2022/billintroduced/Senate/pdf/2021-SIB-0362.pdf>
<https://www.legislature.mi.gov/documents/2021-2022/billintroduced/Senate/pdf/2021-SIB-0422.pdf>

Proposed Action: No action necessary. These are intended to give tax abatements to owners of certain multi-family properties.

4. Additional Matters.

Elder Abuse Task Force/Probate Section – Proposed Uniform Power of Attorney Act. Tom Kabel and Chairperson King were asked to be a part of this endeavor. The objective is to increase use of powers of attorney and reduce fraud.

Discussion was held regarding the transfer on death legislation. It is likely we will form an ad hoc group to work with the Probate and Estate Planning Section.

New Business

a. Amicus Brief -Campbell v Dept of Treasury. Jason's brief was included in the materials. It was noted that he wrote a phenomenal brief.

b. We received a request from Tabitha to send the following survey to the Section:
<https://www.surveymonkey.com/r/CapInsider>

It was determined that we would post the survey on our discussion board.

Chairperson King expressed her sincere gratitude for all of Karen's efforts, particularly while quarantining in California.

Greg Gamalski thanked Chairperson King for her leadership as Section Chair during these trying times.

Next Meeting: Wednesday, July 28, 2021 at noon.

The meeting was adjourned at 1:02 pm.

Respectfully submitted,

Michael A. Luberto, Secretary