

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

SEPTEMBER 16, 2020 AT 12:00 PM

Zoom Meeting

<https://us02web.zoom.us/j/86907401724?pwd=cE9vb1pqb2ZtMWZjNE5XUnpWeGRyZz09>

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 Gregory J. Gamalski Jessica Hallmark Thomas A. Kabel Aileen Leipprandt Leslee Lewis Jason C. Long (CLE) Michael A. Luberto Brandy Mathie Brian Page (Land Title) Dawn M. Patterson J. Scott Timmer Roxana Gale Zaha Cathy LaMont (Immediate Past Chair)		Melissa Collar Brian P. Henry Ronn S. Nadis David E. Nykanen Jerome P. Pesick Nicholas Scavone Kim Shierk
		<u>Section Administrator</u> Karen Schwartz	
		Other Attendees	
		Andrew Gerdes	

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Chairperson King announced the passing of former Chairpersons Robert Berlow and Stephen Bromberg. Greg Gamalski suggested a tribute in the next Real Property Review. Bankruptcy Special Committee Co-Chair Andrew Gerdes was welcomed to the meeting.

Approval of Minutes:

Chairperson King proposed unanimous consent of the minutes from the July 22, 2020 Council meeting. Greg Gamalski moved to support the Motion and Cathy LaMont 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.

Chairperson King moved to approve and receive the Consent Agenda without discussion. Brian Foley moved to support the Motion and Greg Gamalski 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 Report:

Tom Kabel, on behalf of Ms. Patterson, presented the Treasurer's Report for the September Council Meeting.

Membership has increased by 41 members. Dues were raised, so income should increase (\$1,845 so far due to new members). There is \$2,290 in net income year-to-date. A loss of approximately \$7,330 is anticipated by the end of September 2020, based on additional expenses. This is an improvement over our original projections. The original profit/loss projection for 2019-2020 was a loss of \$49,266. The revised profit/loss projection with current financials and the cancellation of Summer Conference 2020 is a loss of \$10,034.00 (a difference of \$39,232).

Three versions of the 2020-2021 budget (summarized below) were presented for initial consideration by Council. The budget will be considered in more detail at the October Council meeting.

Version I (with May Academy & SC21)

Income: \$191,130

Expense: \$199,336

Net Income: - \$8,206

End Balance: \$187,734

Version II (without May Academy & with SC21)

Income: \$182,360

Expense: \$191,836

Net Income: -\$9,476

End Balance: \$186,464

Version III (without May Academy & SC21)

Income: \$128,260

Expense: \$121,936

Net Income: \$6,324

End Balance: \$202,264

Tom Kabel opined to budget for both in-person events. Greg Gamalski questioned whether there would be upcharges by venues for sanitizing expenses due to COVID-19, and suggested increasing registration rates if there are upcharges. Karen Schwartz advised that there is a \$17,000 penalty to postpone Winter Conference 2021 by one year. All three versions of the budget contain that expense. John Gaber asked if Karen Schwartz could find out what the penalty would be from Grand Traverse if we canceled Summer Conference 2021.

Continuing Legal Education (CLE) Committee:

Mr. Long presented the CLE Committee Report for review and discussion. He highlighted specific points in his report.

The 2020-21 Groundbreaker/Real Estate Outlook is being chaired by Scott Lesser. The CLE Committee agreed to recommend to the Council that the “Groundbreaker 2021 Real Estate Outlook” program be held remotely on November 17, 2020. A draft registration form was included in the materials. Scott Lesser has panelists lined up. Scott is looking for a volunteer to be a moderator and for someone with retail experience. It was decided that the registration fee would be \$25 for Section members and \$35 non-members.

Jessica Hallmark is chairing Homeward Bound again this year. The Homeward Bound program was discussed at the CLE Committee meeting and it was agreed to recommend to Council to have the program held remotely. The Zoom program is scheduled to be held on Thursday, January 28th. Jessica Hallmark mentioned that the topic will be similar to last January’s Homeward Bound, “Recent Legislation and Hot Topics on the Horizon”. Recently passed legislation will be presented by Tom Kabel, and we will have an update from our lobbyist Tabitha Zimny on recently proposed legislation. There may also be an update on legislation related to the Marketable Record Title Act. It was decided to keep the registration fee consistent at \$25 for Section members and \$35 for non-members.

Brian Foley is the Chair for the Winter Conference in Austin, Texas. The CLE Committee agreed to recommend to the Council to postpone Winter Conference 2021 in Austin to the following year. This leaves a hole in the CLE calendar. The thought is to provide a second Homeward Bound focusing on case law, and any further updates to legislation. Contact Brian Foley with any suggestions for topics or speakers. Nick Scavone questioned if we would incur any costs by postponing. Chairperson King advised that we would be hit with a \$17,000 penalty if we postpone to 2022, and that it is in the budget. Nick Scavone suggested obtaining a commitment in writing from Marriott for a \$17,000, instead of \$34,000, penalty. Nick Scavone also suggested a review of the Section’s contract with Marriott. It was noted that a big driver of the CLE Committee’s decision to recommend postponing Winter Conference 2021 was not wanting to ask speakers to prepare materials only to have no one show up. Cathy LaMont noted that the last winter conference was on the eve of the shutdown.

Jason Long moved to postpone Winter Conference 2021 by one year. Greg Gamalski seconded the Motion. The Motion carried unanimously.

The Real Property Academy I was originally scheduled to be in Grand Rapids in October 2020. The CLE committee decided to postpone it to October 2021. The May 2021 date at MSU-MEC in Troy remains on the calendar. Cathy LaMont asked if any law firms have asked that the Academy be virtual. None have. We currently do not have a contract with MSU-MEC.

Summer Conference 2021 will be co-chaired by Brandy Mathie and Cathy Riesterer. It is scheduled to be held at Grand Traverse Resort. Some faculty for Summer Conference 2020 have expressed interest in speaking in 2021.

Legislation Committee:

Tom Kabel presented the Legislative report. The Legislative Committee met on Monday. Two items were discussed in that meeting, involving many bills. A discussion was held on the following legislation:

Marketable Record Title Act - The bill to extend the period from 2 to 5 years passed in the House this week.

SB 1056: This pertains to tax foreclosures. The amendment allows Foreclosing Governmental Units to cancel the sale if certain conditions are met (must be a principal residence, there must be less than \$3k in taxes owing, etc.). Also gives a holder of a property interest the ability to make a claim against proceeds to any surplus over the amount of taxes owed. The Legislative Committee did not think the Section should take a position because the land would remain in the hands of the FGU. The Committee did not believe that it would affect the efficient administration of the practice of real property law. Cathy LaMont opined that the bill is a positive development and would not oppose it. If there is a redemption, the FGU is to record a certificate of post-judgment redemption.

HB 6036: This would expand the PACE program to include residential properties. Bankers, realtors, DIFS and credit unions oppose the bill because the loans become part of a tax bill, giving them super-priority. The Legislative Committee recommended that no position be taken. It is not likely that this bill will move quickly. No one expressed a desire to take a position on this legislation.

Tenants by the entireties: 14 bills were introduced to remove gender-specific marriage references in various statutes. David Pierson prepared an explanatory memorandum. David Pierson questioned why all 14 bills were suddenly introduced, and recommended that the Section support the bills, with potential modifications. No one on Legislative Committee disagreed. A Motion was made by Tom Kabel to support the bills, with modifications to the satisfaction of an ad hoc Committee of the Section. The Motion was seconded by Cathy LaMont. The Motion was approved with 17 in favor, zero opposed and zero abstentions out of 17 voting members in attendance of a total of 17 voting members.

Tom Kabel also advised that none of the bills of interest to the Section, including those in which the Section has taken a formal position, have had any activity.

New Business

Marketable Record Title Act – Nick Scavone reported that the Section decided that a comprehensive fix is desired by the Section. The bills extending the time period, and excluding condos passed the House. Stakeholders in the legislative efforts include condominium interests, real estate brokers, Michigan Land Title Association, homebuilders and bankers. There are questions as to whether other stakeholders will oppose the Section's proposed legislation. Nick Scavone noted that Tabitha has not been helpful pushing our legislation, possibly because Tabitha may have a conflict of interest, since she represents the brokers. We may have to push our own agenda. Tom Kabel shared that David Pierson felt that Tabitha has a conflict of interest. Kevin Hirzel had advised Nick Scavone that the brokers oppose our proposed legislation.

Chairperson King reported that Membership Dues will increase next month from \$45 to \$55.

Chairperson King thanked Roxana and Brian Henry for preparing the Pro Bono Brochures that are now on our website.

Discussion regarding Karen's compensation – Chairperson King gave an overview of her salary history. A Motion was made by Cathy LaMont to increase Karen's salary by \$1,000 for 2020-2021, and award her a bonus of \$2,000 for 2019-2020. The Motion was seconded by Greg Gamalski, and passed unanimously.

The next Council meeting is Wednesday, October 14, 2020 at Noon.

The meeting was adjourned at 1: 27 pm.

Respectfully submitted,

Michael A. Luberto, Secretary