

MSBA REAL ESTATE DISCUSSION GROUP THE 2005 REAL ESTATE CASE HIT PARADE

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This report attempts to gather all cases decided by the Maryland courts in the past calendar year in the area of “traditional” real estate law. Detailed treatment is given to cases with something interesting or amusing to say. Cases in the areas of zoning, land use, insurance and torts are generally not included. The year 2005 was marked by several important discussions of areas which have not been talked about for many years, as well as a couple of cases of first impression. Of particular note is the Greenpoint Mortgage Funding case which is virtually a book about the law of recording and the doctrine of lis pendens, and which is worthy of close study. Some cases last year had really ridiculous aspects. One example is a case where a tenant refused to pay a real estate tax bill for \$1,185, and ended up with the lease being terminated and a judgment in favor of the landlord for more than \$200,000. Shangri-la Limited Partnership v. Bevard Farms Corp., Ct. of Spec. App. No. 2784, Sept. term 2003 (Salmon, J., March 4, 2005).

My selection of hits follows:

1. **LESS THAN FREEHOLD, BUT MORE THAN NOTHING** - Whiting v. State, 389 Md. 334, 885 A.2d 785 (Battaglia, J.); Goff v. State, 387 Md. 327, 875 A.2d 132 (Greene, J.); and Empire Properties, LLC v. Hardy, 386 Md. 628, 873 A.2d 1187 (Cathell, J.) – In 2005, the Court of Appeals gave some interesting lessons in less than freehold interests in real property. It accepted cases about tenants, mortgagors who refused to vacate after foreclosure, and squatters. The lessons explained fairly clearly the various statuses of persons who do not own property, but who occupy it. Whiting involved a search of a house where Whiting was a squatter. The Court of Appeals determined that a squatter does not have a legitimate expectation of privacy which would give him substantive rights under the Fourth Amendment to object to a search. The Court of Appeals engaged in a national survey of the law of squatter’s rights. The cases around the country are uniform in holding that a squatter has no standing to challenge a search of the place where he squats. The only case finding any rights comes from Hawaii, and involved a case where the owner acquiesced in the squatting on his property.

Mr. Whiting’s public defender argued that the property he was squatting in was owned by the City, and that the City had kept the electricity on and not made any effort to remove him. He further argued that an indigent’s expectation of privacy in the place where he or she stays should be acknowledged, because to do otherwise would be to discriminate against the homeless and destitute. The Court of Appeals disposed of this argument by saying, “A person’s monetary worth, however, is not the issue; the issue is lawful occupancy.” Since Whiting was not a lawful occupant, he had no standing under the Fourth Amendment.

Empire Properties involved the proper method for evicting a mortgagor who refuses to vacate property after a ratified foreclosure sale. Empire purchased the property and then brought a District Court action for forcible entry and detainer under § 8-402.3 of the Real Property Article. The Court of Appeals says that the sole judicial method available to obtain possession following a foreclosure sale, prior to the audit and conveyance of the property, is Maryland Rule 14-102(a), and jurisdiction is exclusively in the Circuit Court. The Court engaged in a detailed review of the legislative history of § 8-402.3. It also reminds us of its decision in Laney v. State in 2004, 379 Md. 522, where it found that a purchaser may evict a mortgagor who holds over under Rule 14-102(a) or may take possession through peaceable self-help. It is helpful to have a recent court holding legitimizing self-help in the State. The Court also wrote a further textbook on the time when a purchaser of foreclosure is entitled to possession of the property, saying that it is very likely that future purchasers at foreclosure could be faced with the issue as to when possession may be sought, but this issue normally becomes moot before appellate review. The Court reviewed all of the reported cases, going back to Lannay's Lessee v. Wilson, 30 Md. 536 (1869), and the commentators, and issued a ruling intended to explicitly declare when a purchaser is entitled to seek possession. "Insofar as the law and such matters is unclear, we shall now make it clear. When the foreclosure sale is ratified, the purchaser may then be entitled to seek possession, and an equity court, on a case by case basis, and under proper notice, has the discretion, unless the circumstances warrant otherwise, to grant possession." So now we know the answer!

Finally, Goff v. State was a criminal case involving an order for restitution to a victim of crime whose personal property was damaged. However, that person was merely a tenant in the apartment which Goff damaged and not the owner. Goff argued that the property owner was the party who truly suffered the loss, so he could not be ordered to pay restitution to a tenant. The Court of Appeals said that while it is true that Mr. Hadley, the tenant, does not own the apartment in which he lives, it is equally true that as a tenant he has a property interest in the nature of a possessory property right in the apartment. The Court then gives a long footnote quoting from Douglas Bregman's book on Maryland Landlord-Tenant Law, and also analyzes the duty of a tenant to keep the leased premises in repair.

2. WHEN TIME ISN'T REALLY OF THE ESSENCE – Haylett v. Catocin Homes, Inc., CSA No. 1002 (September Term 2004) (Rodowsky, J.) – This was a specific performance case with the unusual feature that when certain conditions precedent to performance failed, the parties allowed the contract to lie in legal limbo for almost 2 ½ years after the scheduled closing date. The trial court found that the purchaser was ready, willing and able to close at the scheduled time. The vendors argued that specific performance is an equitable remedy, and it should be barred by laches because the purchaser waited for over two years before seeking specific performance. The Court nevertheless did not rule against the purchaser. What is particularly interesting is that the Court, citing to an 1863 case, said that it is well settled the time is not generally deemed in equity as of the essence of a contract. "Nor do we interpret this contract as evidencing an intent of the parties that time be of the essence *in the strict sense*. Although no particular form of stipulation is required, the time is of the essence clause must clearly and absolutely provide that the contract is to be void if the fulfillment is not within the prescribed time", citing to the 1926 edition of Pomeroy & Mann on Specific Performance.

This creates a new problem for drafters of purchase contracts who have relied on the fairly common understanding that saying, "Time is of the essence of every provision in this contract", is sufficient to make time of the essence of every provision of the contract.

3. WHAT REMAINS TO THE REMAINDERMAN?- Berrett v. Standard Fire Ins. Co., 166 Md. App. 321, 888 A.2d 1189 (Deborah Eyler, J.) – this case involves a fire in a house which was the subject of a life estate under an unrecorded deed from a mother to her son. Since Maryland adheres to the "insurable interest doctrine", an insured must have an insurable interest in the damaged property. To allow others to insure a property violates Maryland public policy by encouraging a wagering contract. The Court then engages in an analysis of the life estates, how they may be created, and the nature of the remainder interest. The deed here reserved to the mother of life estate without powers, and therefore the son owned a vested and indefeasible remainder in the property. This is one of the longest discussions of life estates in the reported cases in recent years, and is interesting for that reason alone. The procedural posture of the case was complicated by the fact that the remainder man stood silent during a proceeding in his mother's guardianship to approve the sale of the property to a third-party.

4. THE LIABILITY OF A "FIRE BUG" TENANT – Rausch v. Allstate Ins. Co. and Harford Mutual Ins. Co. v. Harkins, 388 Md. 690, 882 A.2d 801 (Wilner, J.) – What is the liability of a tenant for damage to the leased property due to his own negligence? In the absence of a waiver of subrogation clause, is a tenant deemed to be a co-insured with the landlord under the landlord's policies? This is a case of first impression in Maryland although there have been cases on the subject around the country. After analyzing cases from around the country, Judge Wilner comes down squarely in the middle, taking the approach of looking to the reasonable expectations of the parties as determined from the lease and any other admissible evidence. This approach avoids the court making assumptions and adopting fictions, and instead applies basic contract principles and gives proper credence to the equitable underpinning of the doctrine of subrogation. The Court of Appeals refuses to find that tenants are as a matter of law to be treated as co-insureds under the landlord's policy. "Courts have no business adding insureds to an insurance policy in order to achieve their perception of good public policy."

So we now have the Maryland law on this subject:

- Subrogation claims against tenants are not inherently against public policy.
- Provisions in a lease that create a tenant's liability are subject to the normal rules of contract law.
- There is no right of subrogation unless there is liability by the tenant to the landlord.
- If the landlord has communicated to the tenant an express or implied agreement to maintain fire insurance, a court may conclude that the reasonable expectation was that the landlord would look only to the policy and not to the tenant for compensation for fire loss.

- If the premises is a unit in a multi-unit structure, a court may properly conclude that the parties expected that the landlord would have adequate fire insurance covering the entire building.
- In such an event, the tenant would be liable only for damage it caused to its own leased premises and not the remainder of the building.

We now have a set of rules to follow in this area.

5. **THERE ARE SOME LIMITS TO THE ADA** – Solberg v. Majerle Management, 388 Md. 281, 879 A.2d 1015 (Wilner, J.) – Many have the feeling that there no limits to the Americans With Disabilities Act, and it trumps most sensible principles of law. However, the Court of Appeals did find a limit and allowed eviction of tenants who were unreasonable in refusing an inspection of their apartment. The owner of the apartment lived out of state. She employed a management company and required that it inspect the premises about twice a year. The lease required the tenants to allow the landlord to inspect the premises “at any reasonable time.” These particular tenants had high sensitivity to most things present in this world. They canceled one inspection because their neighbors were applying weed control. The tenant then presented a doctor’s note saying it was medically necessary that no individual coming to her home have fabric softener residue on their clothing, be wearing clothing that has recently been dry cleaned, not have pumped gas prior to coming, not wear recently polished shoes, not have come into contact that day with household or commercial cleaning agents, not have a recent permanent or other beauty salon treatment, not have any scented product of any type on hair, body or clothing, the inspector must be a non-smoker (or if a smoker, should only come after shampooing, bathing and washing his clothes in baking soda and special products designated by the tenant). However, it turned out that tenant had a cat! And he also had a car, but did not say who pumped the gas for the car. The landlord tried to schedule inspections beginning in the summer of 2001 continuing after numerous cancellations into 2002, but the court refused to evict the tenants. The matter came to trial in November, 2003 but a settlement was signed calling for the management company to inspect before the end of February, 2004. The district court finally entered a judgment of possession in April, 2004. The tenant appealed to the Circuit Court, which affirmed the eviction and the Court of Appeals granted cert. The Court of Appeals then looked at what is the meaning of “reasonable accommodations.” It found that the tenants had conditioned the right to inspect not on the manager merely bending some business practice or protocol, but on the management company making wholesale and dramatic changes in the lifestyle and personal hygiene of the person inspecting the apartment. Apart from all of the specific issues and prohibitions, which the Court found crossed the boundary of anything reasonable, they also conditioned the inspections on what the neighbors were doing or what they might be doing a week in the future, all of which was beyond the landlord’s control. What they insisted on was not reasonable, and the judgment was affirmed.

6. **THAT DARN CLERK!** - Greenpoint Mortgage Funding Inc. v. Schlossberg, 390 Md. 211, 888 A2nd 297 (Cathell, J.)- It was inevitable that the delays and sloppiness in the clerks’ offices around the state would result in a catastrophe for someone. Here a receiver filed notices of *lis pendens* in Montgomery and Prince George’s County, but they were not properly

indexed against the defendant. By a vote of 4 to 3, the Court of Appeals decided that the risk of misindexing is on the party offering the paper for recording. Judge Cathell gives a useful summary of the law of *lis pendens* going back to 1618, and Maryland cases beginning in 1855, Feigley v. Feigley, 7 Md 537, 556 (1855). He also reviews the Maryland law relating to indexing of the land records and the requirement for maintenance of a complete alphabetical index, and discusses the process which a title examiner goes through in searching land records and court records. Reviewing the statistics of filed cases in Baltimore City in recent years, he concludes that if the burden were on a title searcher to review all court records, he would have to read papers in 226,658 cases in addition to federal liens, “Relying on indexing is the only thing that makes it possible for title attorneys to limit the examination of documents to those that are relevant, generally those cases and documents indexed in the grantor’s or debtor’s name. If indexing were to be eliminated, the marketability of titles would be seriously compromised and the entire system of property in this country might collapse.”

The Court then held “that a party who records a judgment or a notice of *lis pendens* on a judgment index or *lis pendens* index has the duty of ensuring that the name entered into the index is spelled correctly and indexed correctly in order to protect the priority of that party’s lien or potential lien. . . . It stands to reason that the onus should be on him in order to assure that the notice is not only on file, but also recorded and indexed correctly in order to provide the greatest protection.” Finally, “the risk of a misindexed or non-indexed notice of *lis pendens* falls on the person who has the power to avoid it: the party who seeks to establish the notice... “

The dissent embarks on its own historical survey of the law and comes to an opposite conclusion. However the case is interesting because of the detailed survey of the law of recording and indexing, and should be required reading for all title searchers and title attorneys.

7. A MORTGAGE LOAN FROM YOUR CLIENT-BAD IDEA! – Atty Grievance Commission of Md. v. Parker, 389 Md. 142, 884 A.2d 104 (Wilner, J.) – This disciplinary proceeding involved, among other things, an attorney talking his clients into making him a mortgage loan in the amount of \$70,000.00 to help finance the purchase of property in Tennessee, where the attorney intended to relocate. The attorney and his wife owned property in Talbot County which he told the clients would be collateral for the loan. The loan was made and the attorney prepared a mortgage to secure the loan. There were only two small problems with the mortgage – first, the mortgage included no legal description or deed reference to the property to be encumbered, and second, the attorney neglected to name his wife as a mortgagor or to have her sign the mortgage. Other than these two small defects, the mortgage was just perfect. The attorney never made any of the monthly payments, and in fact did not pay anything until the client’s daughter smelled a rat. The attorney said that the whole thing was a “mere mistake”, even though he was an experienced real estate lawyer with his own brokerage firm.

Judge Wilner had little patience for this defense, saying that it cannot have been a “mere mistake” for the attorney to prepare a mortgage that was wholly ineffective, for him to apply against the principal of the loan alleged credits of \$63,000.00 to which he had absolutely no entitlement, and to seek yet a second payment of same \$63,000.00. The attorney’s conduct “was laced with dishonesty and breach of trust. The only appropriate sanction is disbarment.”

8. **YET ANOTHER LESSON IN FORECLOSURE - Greenbriar Condominium, Phase I Council Unit of Owners, Inc. v. Brooks**, 387 Md. 683, 878 A.2d 528 (Cathell, J.)- In 2004, we had Simard v. White, 383 Md. 257, 859 A.2d 168, which gave us an extensive historical and legal lesson in the law of foreclosures. This year, thanks to Clifford Brooks, an attorney who resides in Greenbelt, in his third or fourth trip to the appellate courts against his condominium association, we have very precise marching orders with regard to enforcement of contract liens and foreclosure procedures generally. Judge Cathell, for some reason, devoted about twelve pages in A.2d to a detailed accounting history of Mr. Brooks' trouble with his condo association. It is difficult to tell exactly the extent of his delinquencies, but one footnote in the case indicates that there may have been over 100 delinquencies in payment of monthly condo fees! Mr. Brooks, who the Court characterizes as "magnificently capable of making voluminous filings", won some of the skirmishes with his condo but lost others. Ultimately, based on the present case, a foreclosure sale on January 15, 1999, in which the condo board was the successful bidder, was ratified.

Aside from the history of Mr. Brooks' financial woes, the Court also gives us a detailed history of the Maryland Condominium Act and Contract Lien Act as regards foreclosure of condominium liens. Most importantly, the Court clarifies that if the debtor owes any amount, he must either proffer to pay the stated debt filed by the creditor, or must file a motion to enjoin the sale on issues related to tender prior to the sale. The Court's instructions are –

- When a dispute over the sum due exists, but it is conceded that some sum is due and in default, the proper procedure to stop the sale on issues relating to tender and redemption is a motion seeking to enjoin the sale prior to the sale.
- After the sale, redemption is foreclosed and the issue of what sum is due, is to be addressed at the audit stage, not the ratification stage. The foreclosure sale extinguishes the right of redemption.
- A debtor may challenge procedural irregularities in the foreclosure sale by filing post-sale exceptions at the time of ratification, and may seek to overturn the sale on those bases.
- Likewise, a debtor may challenge the statement of indebtedness by filing exceptions to the auditor's account.
- A creditor's refusal to accept a debtor's good faith, but insufficient, tender, or a debtor's proffer of an incorrect amount, does not insulate a debtor's right of redemption from the sale. Injunctive relief via Rule 14-209 is the only proper means available to a debtor prior to a foreclosure sale to bring such issues to attention of the Circuit Court.

- END -

2005 REAL ESTATE CASES

<u>DATE</u>	<u>CASE NAME</u>	<u>HISTORY / COMMENTS</u>	<u>SUBJECT</u>
1/31/06	Chesapeake Bank of Maryland v. Monro Muffler/Brake, Inc., 166 Md.App. 695, 891 A.2d 384 (Kenney, J.)	Reversed and Remanded to Circuit Court.	Lease – Renewal – Late Notice
12/23/05	Berrett v. Standard Fire Ins. Co., 166 Md.App. 321, 888 A.2d 1189 (Deborah Eyler, J.)		Remainder interest after life estate as insurable interest.
12/15/05	Greenpoint Mortgage Funding, Inc. v. Schlossberg, 390 Md. 211, 888 A.2d 297 (Cathell, J.)	4 – 3 decision	Recording - risk of misindexing – lis pendens
12/14/05	Queen v. Foreman, CSA No. 2718, Sept. Term 2004 (Davis, J.)		Trustee- Duty to maintain real estate assets
12/14/05	Greenberg v. Rich, CSA No. 2102, Sept. Term 2004 (Karwacki, J.)		Specific Performance – Buyer not entitled – attorney’s fees
12/13/05	Banks v. Pusey, CSA No. 2146, Sept. Term, 2004 (James Eyler, J.)	Cert. granted 3/9/06	Prescriptive easement - established
12/12/05	Kane v. Board of Appeals, 390 Md. 145, 887 A.2d 1060 (Cathell, J.)		Code violation by tenant – landlord liable
12/9/05	Severn View Homeowners Assoc., Inc. v. Calabrese, CSA No. 095, Sept. Term 2004 (Bishop, J.)		Prescriptive easement – marina use
12/9/05	Gimbel v. Howard L. Chertkof & Co., Inc., CSA No. 2817, Sept. Term 2004 (James Eyler, J.)		Broker’s lien – Exclusive agent
12/5/05	Hillsmere Shores Improvement Association, Inc. v. Singleton, CSA No. 00763, Sept. Term 2004 (Hollander, J.)		Quiet Title Action – necessary parties – HOA open space
11/22/05	Bay City Property Owners Assoc., Inc. v. Miller, CSA No. 2143, Sept. Term 2004 (Adkins, J.)	Cert. granted 3/9/06	Constructive notice – Restrictive covenants
11/21/05	JT Holdings, Inc. v. Schertler, CSA No. 1736, Sept. Term 2004 (Kenney, J.)		Lease – Reformation – right to redeem.

<u>DATE</u>	<u>CASE NAME</u>	<u>HISTORY / COMMENTS</u>	<u>SUBJECT</u>
11/16/05	The Warfields Homeowners' Assoc., Inc. Michael, CSA No. 2415, Sept. Term 2004 (Deborah Eyler, J.)		HOA – Easement to maintain entrance features for development
11/8/05	Whiting v. State, 389 Md. 334, 885 A.2d 785 (Battaglia, J.)	Bell, C.J. joined in judgment only.	Squatter's Rights – no reasonable expectation of privacy
11/3/05	Wolfe v. Maryland National, 165 Md.App. 339, 885 A.2d 826 (Alpert, J.)		Mechanics' Liens – not for repairs
10/20/05	College Bowl, Inc. v. Mayor and City Council of Baltimore, CSA No. 1475, Sept. Term, 2004 (Kenney, J.)	Cert. granted 2/6/06	Inverse condemnation – claim by tenant
10/20/05	KSC Enterprises, Inc. v. Klimen, CSA No. 1975, Sept. Term, 2004 (James Eyler, J.)		Construction contract – non-payment – attorney's fees
10/20/05	Kobrine, LLC. v. Metzger, CSA No. 1731, Sept. Term, 2004 (Adkins, J.)	Appeal of prior remand, 380 Md. 620	Easement – order for HOA to allow use
10/7/05	Zografos v. Mayor & City Council of Baltimore, 165 Md.App. 80, 884 A.2d 770 (Barbera, J.)		Eminent Domain – Old tax assessment admissible
10/5/05	Dept. of Housing and Comm. Dev. v. Mullen, 165 Md.App. 624, 886 A.2d 900 (Salmon, J.)	Reconsid. denied. 12/15/05	Restrictive covenant – Historic property – forfeiture for violation
10/4/05	Attorney Grievance Comm. of Md v. Parker, 389 Md. 142, 884 A.2d 104 (Wilner, J.)		Attorney Discipline – Mortgage loan to elderly client
10/4/05	Royal Plaza Community Association, Inc. v. Bonds, 389 Md. 187, 884 A.2d 130 (Cathell, J.)		Tax sale – Foreclosure – HOA not entitled to notice
9/16/05	Bahena v. Foster, 164 Md.App. 275, 883 A.2d 218 (Krauser, J.)		Trees – Consent Order – Contempt for violation – Attorney's fees
9/8/05	Rausch v. Allstate Ins. Co., 388 Md. 690, 882 A.2d 801 (Wilner, J.)	Reconsid. denied 10/12/05	Insurance – subrogation against tenants
8/15/05	Rhaney v. Univ. of Maryland Eastern Shore, 388 Md. 585, 880 A.2d 357 (Harrell, J.)		Landlord liability for attack by fellow student

<u>DATE</u>	<u>CASE NAME</u>	<u>HISTORY / COMMENTS</u>	<u>SUBJECT</u>
8/12/05	Reichs Ford Road Joint Venture v. State Highway Admin., 388 Md. 500, 880 A.2d 307, (Harrell, J.)		Eminent Domain – Fair market value – Lost rental income
7/22/05	Garfink v. The Cloisters at Charles, Inc., CSA No. 1560, Sept. Term 2004, (Sharer, J.)	Cert. granted 11/10/05	Condominium – no easement in exterior wall
7/20/05	450 General Partnership v. J&K Distributors, Inc., CSA No. 1809, Sept. Term 2004 (Deborah Eyler, J.)		Lease – Holdover tenancy
7/18/05	Ayah, Inc. v. Kochhar, CSA No. 1231, Sept. Term 2004 (Krauser, J.)		Lease – length of term – ambiguous clause
7/18/05	Solberg v. Majerle, 388 Md. 281, 879 A.2d 1015 (Wilner, J.)	Reconsid. denied 9/2/05	Landlord's right to inspect premises – ADA tenant
7/7/05	Farmers Bank of Maryland v. Chicago Title Ins. Co., 163 Md.App. 158, 877 A.2d 1145 (Adkins, J.)	Cert. granted 11/10/05	Mortgage – Pay off required where endorsement forged
6/22/05	Greenbriar Condominium, Phase I Council of Unit Owners, Inc. v. Brooks, 387 Md. 683, 878 A.2d 528 (Cathell, J.)	5 – 2 decision	Condo Lien – like mortgage foreclosure – procedure to stop sale
6/13/05	Haylett v. Catoctin Homes, Inc., CSA No. 1002, Sept. Term 2004 (Rodowsky, J.)	Cert. denied 10/4/05	Specific Performance – Time of essence “in strict sense” - conditions
6/13/05	Burruss v. Beachwood Estates Homeowners Assoc., Inc., CSA No. 2693, Sept. Term 2003 (Kenney, J.)		Adverse – Possession – Fenced area – title established
6/13/05	Sherwood v. McGrath, CSA No. 525, Sept. Term 2004 (Salmon, J.)		Warranties – New home – breach
6/13/05	Herman v. Cecil County Office of Planning and Zoning, CSA No. 1223, Sept. Term 2004 (Deborah Eyler, J.)		Eminent Domain – Road as public use
6/7/05	Azat v. Farruggio, 162 Md.App. 539, 875 A.2d 778 (Davis, J.)		Lease – Purchase option – encroachments
6/6/05	Knight v. Princess Builders, Inc., 162 Md.App. 526, 875 A.2d 771 (Adkins, J.)	Cert. granted 10/3/05	Estates – Contract to sell to third-party enforceable
6/6/05	Goff v. State, 387 Md. 327, 875 A.2d 132 (Greene, J.)		Tenant – Nature of interest in apartment

<u>DATE</u>	<u>CASE NAME</u>	<u>HISTORY / COMMENTS</u>	<u>SUBJECT</u>
6/3/05	South Easton Neighborhood Assoc., Inc. v. Town of Easton, Maryland, 387 Md. 468, 876 A.2d 58 (Harrell, J.)		Municipalities – Conveyance of closed street to private party
5/12/05	Remes v. Montgomery County, 387 Md. 52, 874 A.2d 470 (Cathell, J.)	Reconsid. denied 6/15/05	Zoning merger – Application to residence
5/10/05	Empire Properties, LLC v. Hardy, 386 Md. 628, 873 A.2d 1187 (Cathell, J.)		Foreclosure – Proper procedure to obtain possession
5/6/05	Dorman v. Foxwell, CSA No. 1046, Sept. Term 2004 (Deborah Eyler, J.)	Cert. denied 8/12/05	Insurance – collapse of dwelling – hidden decay
4/20/05	Vann v. St. Charles Planning & Design Review Board – Smallwood Village, CSA No. 434, Sept. Term 2004 (Bloom, J.)	Cert. denied 7/18/05	Covenants – Enforcement – signs on commercial building
4/13/05	Mutual Fire Ins. Co. of Calvert County v. Ackerman, 162 Md.App. 1, 872 A.2d 110 (Adkins, J.)		Insurance – vacant building – purchaser as insured
4/7/05	Irechukwu v. Ryan Homes, Inc. CSA No. 617, Sept. Term 2004 (Krauser, J.)	.	Warranties – New home – Economic loss rule
4/4/05	Stansbury v. MDR Development, L.L.C., 161 Md.App. 594, 871 A.2d 612 (Kenney, J.)	Affirmed, 390 Md. 476 (1/9/06)	Easement – Necessity over submerged land
3/21/05	Goodman v. Zuramski, CSA No. 2654, Sept. Term 2003 (Wenner, J.)	Cert. denied 11/14/05	Contracts – Counter offer not an acceptance
3/11/05	Polakoff v. Turner, 385 Md. 467, 869 A.2d 837 (Greene, J.)	(5-2 decision)	Negligence – Lead paint – <u>Brooks</u> applies retroactively
3/8/05	C.B.S. Associates, L.L.P. v. Capital Commercial Properties, Inc., CSA No. 44, Sept. Term 2004 (James Eyler, J.)		Lease – Breach by constructing building in parking lot
3/4/05	Shangri-La Limited Partnership v. Bevard Farms Corp., CSA No. 2784, Sept. Term 2003 (Salmon, J.)		Lease – Breach – Duty of landlord to mitigate
2/4/05	Hoffman v. Stamper, 385 Md. 1, 867 A.2d 276 (Wilner, J.)	Cert. granted 6/11/05	Fraud – Flipping – Liability of Appraiser
2/2/05	Zelones v. Herald Harbor Citizens Assoc., Inc., CSA No. 1002, Sept. Term 2003 (Wenner, J.)		Quiet Title Action – necessary parties

<u>DATE</u>	<u>CASE NAME</u>	<u>HISTORY / COMMENTS</u>	<u>SUBJECT</u>
2/1/05	Covey v. Kurtz, CSA No. 349, Sept. Term 2004 (Sharer, J.)	.	Easement – Access to water – right to build dock
2/1/05	Hildebrandt v. Guilford Avenue, LLC, CSA No. 408, Sept. Term 2004 (Krauser, J.)	Cert. denied 6/17/05	LLC – sale of membership interest w/apartment
1/18/05	Debutech Constr. Enterprises, Inc. v. Walker, CSA No. 310, Sept. Term 2004 (Davis, J.)		Vendor & Purchase – Violation of Custom Home Act
1/18/05	Goldberg v. Mitchell, CSA No. 2716, Sept. Term 2003 (Hollander, J.)		Foreclosure – Exceptions – hearing required
1/12/05	Cheng v. Hollinswood Park Assocs. Limited Partnership, CSA No. 02802, Sept. Term 2003 (Hollander, J.)		Landlord & Tenant – Default judgment for landlord vacated

This list includes 59 cases decided by Maryland Courts in 2005 in areas of interest to real estate lawyers (but excluding land use cases) - 17 are cases from the Court of Appeals, and 42 are from the Court of Special Appeals (32 unreported). The list also contains 1 reported case decided by the Maryland Court of Special Appeals in 2006.