



**MINUTES OF MEETING OF SECTION COUNCIL OF SECTION OF REAL
PROPERTY PLANNING AND ZONING
MARYLAND STATE BAR ASSOCIATION
WEDNESDAY, MAY 4, 2005**

The third meeting of the Section Council for the 2004-2005 Bar Association Year was held on Wednesday, May 4, 2005 at The Elkridge Furnace Inn in Elkridge, Maryland. The following Section Council Members were present: David Kochanski, *Chair*, Thomas C. Barbuti, *Vice Chair*, Michelle R. Curtis, William M. Hoffman, Jr., Nicole Lacoste, Hilary J. O'Connor, J. Paul Rieger, Theresa Burian Shea, Raymond G. Truitt, *Immediate Past Chair*, Jack Zemil, and Tracey E. Skinner, *Secretary*.

1. Call to Order – Mr. Kochanski called the meeting to order at approximately 6:40 p.m.
2. Prior Minutes – The minutes of the January 2005 Section Council meeting were approved and will be posted on the Section's website.
3. Chair's Report – Mr. Kochanski reported on the following topics:
 - (a) Foreclosure Committee – The committee is now an official standing committee of the Section, and already is proving to be active and productive.
 - (b) Annual Meeting – The Section's business meeting and program is set for Friday, June 17, beginning at 8:00 a.m. with breakfast. For more on the meeting and program, see the agenda and program description attached hereto as pages 4 and 5.
 - (c) Opinions Project Committee of the Business Law Section – As a follow-up to the January 2005 discussion about the Business Law Section's project to update the "The Report of The Special Joint Committee on Lawyers' Opinion in Commercial Transactions of the Maryland State Bar Association and the Bar Association of Baltimore City," dated January 18, 1989, Mr. Kochanski, Edward J. Levin, of DLA Piper, Fred Wolf III, of Ballard Spahr, S. Nelson "Sandy" Weeks, also of Ballard Spahr, and Mr. Dopkin are representing the Real Property, Planning and Zoning Section on the project. There will be subcommittees working on the project and more volunteers will be asked to participate on the subcommittees. Mr. Dopkin chairs the Assumptions Subcommittee. The other subcommittees are: Procedures, Conflicts, Entities, Equities, Ethical Issues, Remedies, Format, Perfection/Priorities, and Litigation. If anyone (or someone in

your respective firms) is interested in joining a subcommittee you can contact Mr. Dopkin or the Chair of the Opinions Project Committee, Charles (Chuck) Morton at Venable. Overall, the project will probably take 2 years to complete.

4. Committee Reports

(a) Nominating Committee Report – For the Nominating Committee Report, please see the report attached hereto starting at page 6.

(b) Legislative Liaison/Code Revision – Ms. Shea reported for the committee. 2005 H.B. 1, Recordation and Transfer Taxes – Transfers of Controlling Interest, did not pass. As in previous years, this bill supported the assessment of state recordation and transfer tax upon the transfer of a “controlling interest” in certain entities owning interests in land in Maryland.

Other bills of interest that will be discussed in more detail at the Section’s discussion group’s annual legislative review dealt with foreclosure, early lease termination, the residential disclosure statement, the increase in the nonresident withholding tax, and a recordation tax exemption for same sex partners.

(c) Commercial Real Estate Discussion Group – Ms. Lacoste reported that at the May 10 Commercial Real Estate Discussion Group the topic will be the annual legislative review and that Robert Ercole will be one of the speakers.

The Bay Atlantic Club probably will continue to be the venue for the lunches.

(d) Newsletter – Ms. O’Connor is the editor for the Spring/Summer issue of the newsletter and Mr. Flynn will assist. The newsletter will be published in late June and will include the legislative update, the case law hit parade, and an advertisement for the Fall Real Estate Institute. The newsletter will be mailed.

(e) Law School Mentoring – Ms. Shea reported that the mentoring program at the University of Maryland went well. The program was so beneficial that one student commented that she did not want to be a solo practitioner, but would rather work in a firm. Mr. Barbuti and Mr. Kochanski participated in the program. No program was held at the University of Baltimore.

(f) Technology -

(i) Webpage – Mr. Zemil is deleting some dated documents from the website. He noted that the Assistant Attorney General serving the Clerk’s Office, through the Courts and Judicial Affairs Division of the Attorney General’s Office, may have his own website soon. Until then, the Section will continue to post the AG Opinions regarding transfer and recordation taxes and other recording matters.

(ii) Listserv – As a follow-up to the January discussion about the Forum, Ms. Skinner said that she will work with Pat Yevics and John Anderson during the summer to make the Forum more user friendly.

(g) Annual Meeting – The Section's business meeting and program is set for Friday, June 17, beginning at 8:00 a.m. with breakfast. For more on the meeting and program, see the agenda and program description attached hereto as pages 4 and 5.

(h) Pro Bono Projects – No report.

(i) MICPEL Liaison – Ms. O'Connor reported that suggested topics for the Annual Real Estate Institute, to be held in September 2005, range from construction issues to homebuilding topics and RESPA topics. Suggestions for topics are welcome. The committee working on the program wants to have an agenda by the Annual Meeting in Ocean City.

Mr. Kochanski mentioned that he suggested to Brent Burry, MICPEL's Executive Director, that MICPEL should have more real estate programs. Mr. Burry commented that there is a problem recruiting real estate attorneys to teach the courses. The Council recommended that MICPEL could be proactive with its recruiting and also try to broaden its audience to make it more appealing to lawyers to teach the course. Mr. Truitt mentioned that the 6-week introductory course to commercial real estate might be revived.

(j) Land Records Oversight – Mr. Truitt reported that the leadership of the MSBA had a meeting with a group of partners from a number of large firms in the State and the question was posed whether lawyers should be contributing money to help maintain the structures of the State's courthouses. Mr. Truitt commented at the MSBA meeting that there also should be concerned about the needs of the business of the courthouses, such as keeping recordings in the Land Records current.

(k) Clerks Practice – Mr. Hoffman will send an e-mail to the officers of the Section about those liaisons to the clerks' offices that have not been reporting and/or non-responsive. This ends Mr. Hoffman's term, but he volunteered to work with the clerks' liaisons.

(l) Distinguished Practitioner of the Year Award – Mr. Barbuti reported that the recipient of the award is Morton P. Fisher, Jr., and the award will be presented at the Annual Meeting.

5. Other Reports/Updates – None.
6. New Business – The next meeting of the Section Council will be held on June 17, 2005, at the MSBA 2005 Annual Meeting at the Clarion Resort Fontainebleau Hotel.

The meeting adjourned at 8:30 p.m.



REAL PROPERTY, PLANNING & ZONING SECTION

BREAKFAST AND BUSINESS MEETING

- 8:00 a.m. - 8:30 a.m. --- Breakfast
- 8:30 a.m. - 9:00 a.m. --- Business Meeting, including Distinguished Practitioner Award (Mr. Kochanski and Mr. Barbuti)

THE LATEST REALITY IN REAL ESTATE: FROM TICs & 1031s TO SWAPs

- 9:00 a.m. - 9:45 a.m. --- TICs Presentation, including Title Insurance Issues (Mr. Heicklen, Mr. Scott and Moderators)
- 9:50 a.m. - 10:15 a.m. --- SWAPs & other financing methods, including Title Insurance issues (Mr. Stough, Mr. Scott and Moderators)
- 10:15 a.m. - 10:30 a.m. -- Recent Legislation and Case Law (Mr. Rieger)
- 10:30 a.m. --- Adjournment



THE LATEST REALITY IN REAL ESTATE: FROM TICs & 1031s TO SWAPs

As real estate and business attorneys, we always want to be a step ahead of our clients in current trends and practices in real estate. The program “The Latest Reality in Real Estate” and the related materials will provide practical information on recent developments in structuring sales of real estate and in structuring loans for purchases or refinancing existing loans. This program will provide insight on how tenant-in-common ownerships (TICs) and 1031 Exchanges are being used in tandem to avoid the high capital gains tax that may result when selling real estate holdings. There also will be a discussion regarding different loan products such as Swaps and Mezzanine financing. And, so that we can advise our clients on all fronts, there will be a summary of recent legislation and case law that affects the real estate client.

Our distinguished panel of speakers and their respective topics of discussion include:

Wayne B. Heicklen, Esq., of Pryor Cashman Sherman & Flynn LLP, will present the first part of the program focusing on current Internal Revenue Procedures pertaining to tenancy in common ownership and when such ownership structure can be used to effectuate a 1031 exchange.

Dennis L. Stough, Sr. Vice President of SunTrust Bank, will present the next part of the program addressing different loan products, with a focus on the loan product referred to as a Swap and its risks and benefits.

Randall L. Scott, Esq., of First American Title Insurance Company, will discuss title insurance requirements and potential issues relating to mezzanine financing and UCC endorsements.

J. Paul Rieger, Esq. of Commonwealth Land Title Insurance Company will present the newly enacted legislation and case law affecting the real estate industry.

The moderators of the program are David M. Kochanski, Esq., Chair of the Real Property, Planning and Zoning Section and partner with Shulman, Rogers, Gandal, Pordy & Ecker, P.A., and Thomas C. Barbuti, Esq., Vice Chair of the Section and partner with Whiteford, Taylor & Preston, L.L.P.

MEMORANDUM

TO: Members of the Section of Real Property, Planning and Zoning of the Maryland State Bar Association

FROM: David M. Kochanski, Chair

DATE: June 13, 2005

RE: Report of the Nominating Committee -- Section of Real Property, Planning and Zoning of the Maryland State Bar Association

The Nominating Committee of the Section of Real Property, Planning and Zoning (consisting of David M. Kochanski, *Chair*, Raymond G. Truitt, *Immediate Past Chair*, Thomas C. Barbuti, *Vice Chair*, Nancy Haas and J. Paul Rieger) recommends the following nominations for consideration by the members of the Section for the election to be held at the annual meeting of the Section at 8:00 a.m. on June 17, 2005 at the Clarion Hotel in Ocean City, Maryland:

To serve as Vice-Chair for a one-year term: Tracey E. Skinner

To serve as Secretary for a one-year term: Michael S. Swanenberg

To serve as Chair of the Code Revision Committee: Theresa Burian Shea

To serve as Chair of the Commercial Real Estate Attorneys' Discussion Group: Edward Urban Lee III

To serve as Members-At-Large of the Section Council for a two-year term ending June 2007:

Sara H. Arthur – Anne Arundel County
Ronald S. Deutsch – Baltimore County
Guy E. Flynn – Baltimore City
H. Mark Rabin – Montgomery County
Barry Weiskopf – Baltimore City
Jack N. Zemil – Baltimore City

The following Members-At-Large shall continue to serve for the remainder of a two-year term ending June 2006:

Michelle R. Curtis – Montgomery County
Nicole M. Lacoste – Baltimore City (completing Mr. Swanenberg's unexpired term)
Michelle DiDonato – Howard County

Nancy Haas – Baltimore City
Hilary O'Connor – Baltimore City
J. Paul Rieger – Baltimore City (completing Ms. Shea's unexpired term)

Thomas C. Barbuti automatically will become Chair of the Section for a one-year term pursuant to Section 402 of the Section bylaws.

David M. Kochanski, as the immediate past Chair, and Raymond G. Truitt, as the penultimate past Chair, will serve as honorary non-voting members of the Section Council, pursuant to Section 302 of the Section by-laws.

Other nominations for officers (except Chair) and members-at-large may be made by petition of at least fifteen (15) members of the Section, filed with the secretary of the Section, Tracey E. Skinner, not later than ten (10) days prior to the annual meeting to be held on June 17, 2005 in Ocean City, Maryland. Nominations may be made by contacting:

Tracey E. Skinner at 2 N. Charles Street, Suite 500, Baltimore, Maryland 21201, P: 410/752-2052, F: 410/576-0052, E-mail: Teskinner@aol.com.