



**MINUTES OF MEETING OF SECTION COUNCIL OF SECTION OF REAL  
PROPERTY PLANNING AND ZONING  
MARYLAND STATE BAR ASSOCIATION  
TUESDAY, FEBRUARY 12, 2004**

The third meeting of the Section Council was held on February 12, 2004 at That's Amore in Columbia, Maryland.

**PRESENT:** Raymond G. Truitt, Teresa Shea, J. Paul Rieger, Michael Swanenburg, Michelle Curtis, Nancy Haas, Tracey Skinner, Mark D. Dopkin, Anne Marie Westerbaan-Klein, William M. Hoffman, Jr., Jack Zemil, Guy Flynn, David Kochanski, and Thomas C. Barbuti.

1. Call to Order - The meeting was called to order by Ray Truitt at 6:45 p.m.
2. Prior Minutes – The minutes of the last Section Council meeting held on November 11, 2003 were approved.
3. Chair's Reports – Mr. Truitt reported on the following topics:
  - (a) 2004-2005 Budget – The budget for 2004-2005 has been proposed as equal to the budget for 2003-2004. Chairperson Truitt had requested information about the cost for 2003 in order to prepare a more detailed budget for 2004-2005, but information was not timely provided to the Chairperson by the MSBA. As a result, the budget for 2004-2005 will reflect the budget numbers for 2003-2004.
  - (b) New MSBA Legislative Liaison – Richard Montgomery – Richard Montgomery has been hired to take Buzz Winchester's place. The Chairperson has had at least one conversation with Mr. Montgomery. The Section looks forward to working with Mr. Montgomery in connection with certain legislation currently being reviewed by the Legislative Liaison/Code Revision Committee.
  - (c) Park Station Limited Partnership, LLLP v. Bosse, et ux., 378 Md. 122 (2003) – Kevin Shepherd has written an article about the Park Station case. In this case, the Court of Appeals determined that certain rights and obligations in a contract may not be binding upon successors and assigns if it is not so expressly stated. The decision may be contrary to the

controlling Maryland statute, §1-103 of the Real Property Article of the Annotated Code of Maryland.

(d) Meeting with Deputy Attorney General Maureen Dove – The Chairperson and others met with Maureen Dove, Deputy Attorney General, to discuss the Attorney General’s handling of recordation and transfer tax questions now that Julia Andrews is no longer with the State. Maureen indicated that they are doing their best to assemble the materials Julia Andrews left behind. Ms. Dove offered to provide training sessions to the Clerks of the Court for routine matters, and the Section Council has offered to assist her in that respect. Ms. Dove indicated that she will seek additional funding for a new position in the Attorney General’s office to handle questions from the Clerks of the Court relating to recordation and transfer taxes as the person filling Julia Andrews job also is continuing in another role. Ray Truitt indicated that he is aware of several good candidates interested in such a position.

(e) Changes to Title 16, Chapter 1000, Maryland Rules – The Chairperson reported that the Court of Appeals adopted amendments to Title 16, Chapter 1000, Maryland Rules. Chairperson Truitt’s main concern in Rule 16-1002(b)(1) is that there is a clear statement that the Clerk is not required to permit inspection of a case in a judicial action or notice record filed for recording and indexing until a document has been docketed or recorded in index. This would make it impossible for title companies to check on documents filed but not yet indexed by the Clerk. In many counties, there is a serious backlog. Chairperson Truitt discussed this issue with Harry Johnson, MSBA President. Mr. Johnson asked Chairperson Truitt to prepare a draft letter for the State Bar Association to send to the Court suggesting that the Clerks be required to provide information to title companies and other persons offering documents for record. The backlog is not the fault of the parties offering documents for record. The Section Council unanimously approved the drafting of a letter by the Chairperson for the MSBA President to send to the Court. Comments were made about the backlog or the slowdown being due to the enormous amounts of refinancing documentation and also as to certain budget issues with respect to staffing. Everyone is aware of the problem of slow indexing. The inability of the title companies to review documents not yet indexed may impede commerce. The letter from the Section will address these issues and bring them to Judge Bell’s attention. A copy of the amendments to Rule 16-1002 was distributed by the Chairperson to members of the Section Council.

#### 4. Committee Reports

(a) Legislative Liaison/Code Revision – Terry Shea, Vice Chair of the Committee, made a report. The comments regarding HB1 have been

submitted. There will be a hearing early next week on Senate Bill 379, so Terry asked for comments to be submitted to her in writing by noon on Monday, February 16.

(b) Commercial Real Estate Discussion Group – Chairperson Truitt reported that the remainder meetings for this year will be at the Culinary Arts College. The Culinary Arts College is anxious to host the meetings and is adding new sound capabilities and attempting to address other issues raised by our Discussion Group Committee. Nicole Lacoste is considering other venues, including a conference facility at 36 S. Charles Street, the former Piper office. The agenda is set for the rest of this spring. Nicole has convinced David Fishman to do his annual review of cases. The Chairperson assumes that Nicole Lacoste is willing to serve a second year a Chairperson of the Commercial Real Estate Discussion Group. At the next Commercial Real Estate Discussion Group meeting, members of MVLS will be there looking for volunteer lawyers, especially lawyers who are willing and able to handle cases where Baltimore City is the other party to the case.

(c) Newsletter

(i) Fall/Winter Issue - Michael Swanenburg reports that the Fall/Winter issue is complete and should be available next week. Jack Zemil asked for a copy so it could be posted on the web site.

(ii) Spring/Summer Issue - Hilary O'Connor is the editor for the Spring/Summer issue. Ray Truitt made a plea on her behalf for interested persons to send articles and other matters of interest to Hilary for the Spring/Summer issue.

(d) Law School Mentoring - Guy Flynn reports that he has been in touch with faculty at both Maryland and Baltimore law schools. In addition, he is working on putting together a group to hold a panel discussion at the law school. The subject of the panel discussion would be along the lines of "So You Want To Be A Lawyer?" He will be contact several people over the next month to solicit their participation in the group discussion.

(e) Technology -

(i) Listserv – Tracy Skinner reports that Listserv seems to be working well. Anyone with any comments should contact Tracy.

(ii) Webpage – Jack Zemil is in charge of the webpage. Jack asks that anyone who has something to post on the website send it to him electronically.

- (iii) “Sample” Document Postings/Chat Room – Ray Truitt had been working on this matter. Tracy Skinner, Jack Zemil and Terry Shea volunteered to work on starting to put some documents on the web.
- (f) Annual Meeting Program (6/16/04 – 6/19/04) – The Chair of the program for the Annual Meeting is Paul Rieger.
  - (i) Educational Program Topic(s) - At this point, Paul is preparing a program “Dealing with Disaster,” which will reflect issues that arose as a result of last year’s blizzard and last year’s hurricane, including flood insurance issues. In addition, a portion of the program will be a primer on bankruptcy law for real estate lawyers, and Alex Gordon has agreed to chair that portion. Paul also expects there will be an update on the non-resident withholding requirements, and it is anticipated that Larry Conn will give the Legislative Update.
  - (ii) Speaker Suggestions - Paul is looking for other speaker suggestions.
- (g) Pro Bono Projects
  - (iii) Advisory Committee, MVLS – Nancy Haas reports that the MVLS Advisory Committee is up and running. MVLS is looking for attorneys to work on cases where the City is on the other side. Nancy asked permission to advise MVLS that they can post possible cases on the Listserv. The Section Council approved it.
  - (iv) Project 5000 – Chairperson Truitt reported that while the Mayor is enthusiastic about results so far, there is still a ways to go. There was some discussion about the Mayor wanting to make this an ongoing annual effort. If that’s the case, then the interest by the larger firms in providing pro bono services to help continuously may decline. In certain neighborhoods where title has been transferred to the City, it appears to be having a beneficial impact on the neighborhood.
- (h) MICPEL Liaison
  - (i) Advanced Real Property Institute – Priscilla Carroll, as Chair of the Advanced Real Property Institute for this year, already had a first organizational meeting and the second organizational meeting is scheduled shortly. The date for the Advanced Real Property Institute has been scheduled for September 21. If anyone has ideas that they would like to see addressed during the 2004

Advanced Real Property Institute, please submit your ideas to Priscilla Carroll or to Ray Truitt.

(ii) Other Programs – Both Hilary O’Conor and Kathleen McTeague have attended Priscilla Carroll’s meetings and have also met with Brent Burry of MICPEL to review MICPEL programs for real estate practitioners. They are looking to see what programs the Real Property Section lawyers would support.

(i) Land Records Oversight - The improvement fund has increased substantially because of the bump in the fee, but the state has not yet determined how much to transfer to the general fund. The current sunset for the improvement fund and the fee is June, 2006. The bill to extend the sunset date died last year. No new bill has been introduced this year to extend the sunset date. The Land Records Oversight Committee believes that the improvements will be made to all jurisdictions other than Baltimore City by the spring of 2004, and that Baltimore City Land Records should be improved by 2005. At a recent meeting, it was reported that there was not an inclination to extend the land records improvement fund; rather, they would bring it into the budget as a budget line item. Many of the records are placed in the archives. The counties still use ELROY as its intake mechanism, but are hoping to move to a web-based program like PLATO, and then offer access to the web-based information for a fee.

(j) Clerks Practice – Bill Hoffman reported that the information on real estate transfer taxes and recording costs is included in the recent edition of the Maryland Lawyers’ Manual, which everyone should have recently received. If you have any suggestions about additional information to be included in the Manual, please contact Bill Hoffman.

(k) Distinguished Practitioner of the Year Award – The next issue of the ground rules will include a request for nominees for this distinguished award. David Kochanski asked for ideas as to how to disseminate the information and publicize the existence of the award and the invitation for people to submit nominations. Anne Marie Westerbaan-Klein suggested that we send it to all members of the Listserv, from time to time. Also, it was asked that the announcements be made at each of the Real Estate Lawyers Discussion Group Luncheons.

(l) Ad Hoc Committee on Issues Involving Title Companies and the Unauthorized Practice of Law – Nancy Haas, Mark Dopkin and David Kochanski agreed to serve on this Committee. They are in the process of trying to collect information from other jurisdictions. The Chairperson again emphasized that the Maryland Insurance Commissioner has asked for Bar Association input on this issue as it relates to title insurance companies conducting settlements, but refusing to conduct settlements if a party at the settlement table is not purchasing title insurance.

5. Other Reports/Updates:

(a) Buying a Home Pamphlet Update – David Kochanski and Nicole Lacoste had nothing to report.

6. New Business

(a) Schedule Final Meeting - The Chair is looking to schedule the final meeting for this year's Section Council in the second half in April. The meeting will most likely be held in Baltimore City.

(b) Other – No other new business was brought forward.

The meeting adjourned at 8:07 p.m.

Respectfully submitted,

Thomas C. Barbuti