

**REAL PROPERTY LAW SECTION – Executive Committee**

**Friday, April 17, 2015**

**10:00 AM to 12:00 PM**

**West Room 1, 2 and 3**

**Harvard Club of New York City**

**35 West 44<sup>th</sup> Street**

**New York, NY**

1. Call to Order – The meeting was called to order by David L. Berkey, Chair, at 10:00 A.M.
2. Approval of minutes of the Executive Committee meeting held on January 28, 2015 – Patricia E. Watkins – On motion made by Steve Alden and seconded the minutes were unanimously approved.
3. Remarks of Chair – David L. Berkey
  - a. The Chair welcomed Maria T. DeGennaro, the new Co-Chair of the Public Interest Committee, who will co-chair with Elizabeth Woods.
  - b. The Chair welcomed Paul Gruber, the new Co-Chair of the Landlord-Tenant Committee, who will co-chair with Peter Kolodny.
  - c. Combined Commercial and Residential Financing Committees into one Real Property Financing Committee, Co-Chaired by Richard Fries and Heather Rogers. Thanks were extended to Frank Sarratori for his work as prior Co-Chair.
  - d. All officers and Committee Chairs were thanked for their work. As a result RPLS membership has grown; we have passed the Business Law Section and are back up to the number 2 position. Committee Chairs were reminded of their responsibilities to e-mail committee reports to the incoming Secretary, Tom Hall (hallt@hallandhalllaw.com), prior to the next meeting, consider a succession plan and groom members to be new co-chairs. We have had enhanced participation by students, by law school internships and recruiting students to work on committees. We want to get more young members in leadership roles as co-chairs of committees.
  - e. There will be vacancies coming up in the House of Delegates. Let the officers know if you are interested in representing RPLS as a delegate or an alternate delegate.
  - f. RPLS will be a Co-Sponsor of the NYSBA CLE Program: Starting a Solo Practice in New York, to be held in on May 14, 2015 in Albany and on November 13, 2015 in NYC.

- g. The updated Real Property Law Section Brochure is complete, which includes summaries of all the committees. Amy can provide copies by e-mail, in pdf form or hard copy form for distribution.
  - h. The following items were referred to Committees for review and input: Title and Transfer is to look into a concern about County Clerks' refusing to accept the modified RP-5217 Equalization and Assessment forms for real property deed transfers; the Legislation Committee is to review the Trust and Estates Law Section proposal for technical amendments to the power of attorney statute; the Legislation and Construction Committees are to review and advise if RPLS should support City Bar Construction Committee report on public procurement reform.
  - i. Congratulations and thanks were extended to Susan M. Scharbach and Michael P. Stevens (Co-Chairs) and Andy Posil member of the Website and Electronic Communications Committee on the April 6 launch of our RPLS Community. The current listserv will end on April 24. FAQs have been posted with links. After logging in the first time, you are in. There are three current RPLS communities: General (like the listserv); Condo & Coop; and Executive Committee. There is also an app for smart phones. You can elect to receive messages either in "real time" or "once a day."
4. Meetings Reports
- a. Leon T. Sawyko reported that during the 2015 Annual Meeting RPLS seminars and committee meetings were well attended. Upcoming meetings are July 16 to 19 for the Summer Meeting, October 16 for the Fall Executive Committee Meeting and April 15 for the Spring 2016 Executive Committee Meeting.
  - b. Mindy Stern reported that there are 64 attorneys, and 111 total registered attendees for the 2015 Summer Meeting at the Basin Harbor Club & Resort on Lake Champlain in Vermont. She thanked the Executive Committee members for approving the discounts, which has resulted in 26 people who have never attended our Summer Meeting before. Rooms are sold out at the Basin Harbor Club, but other rooms are available in the area. The goal is to get 150 attendees. Now that we have first time registrants our work is not over – we need to be ambassadors to get the newbies to become active section members; we plan to assign Executive Committee members to act as mentors to the 'newbies.' Many interesting topics are planned – there is still one slot open for a 'hot topic.' A motion by John Hall to approve extension of the discounts to offsite venues was seconded and unanimously approved.
  - c. 2016 Annual Meeting – Mindy Stern will report at a future meeting.
  - d. 2016 Summer Meeting – Patricia Watkins will report at a future meeting.
5. Michelle H. Wildgrube reported that the last meeting of the House of Delegates was relatively calm. The biggest issue was the report on gun

violence, which was approved. Two hot issues, pro bono reporting and revising the bar exam, have been tabled. Other sections and the bar association administration are excited about how we are using our surplus. Ira Goldenberg reported that the 'big bar' is proud of the RPLS initiatives. Membership overall is down, so the fact that RPLS membership has gone up is significant. The Section Delegates Caucus is seeking to expand membership on the Bar Association's Executive Committee. Nothing will change with the 3-legged stool of CLE (Meetings/Sections/CLE Department.) New guidelines have been adopted regarding commenting on legislation – if there is a controversy between two sections the issue will be reviewed by the President of the Association. If the President is unable to resolve the controversy, the matter will then go to the Executive Committee to review.

6. Section Projects and Initiatives
  - a. Spencer Compton reported that our 2014 surplus was \$14,900+, which added to our surplus of \$148,000+ and gives RPLS current surplus funds of \$163,000+. We should continue to come up with ways to spend the surplus in order to increase membership. We have earmarked funds for scholarships and grants. Surplus also can be used to subsidize the cost of speakers. Commercial Leasing has requested funds to pay airfare and hotel expense for a speaker at the June committee meeting. The officers approved this expenditure on the condition that all section members are invited to attend, rather than only members of that committee. This will be the new RPLS policy for all committees.
  - b. Tom Hall, reporting for the Task Force on Draft Insurance Department Regs, reported about the concern that the proposed regulations issued by Department of Financial Services (DFS) are inconsistent with and more restrictive than the statute with respect to the issue of multiple sources of business. The Task Force met with DFS about 6 weeks ago, and DFS advised that changes had been made to the proposed regulations but could not yet be shared, other than to say they create a "safe harbor" regarding multiple sources of business. The Task Force strenuously objected. The revised proposed regulations still have not been shared; Kevin Kerwin is keeping in touch with DFS.
  - c. Benjamin Weinstock reported that the Attorney Escrow Agent Task Force held one meeting several months ago and will pick it up again.
  - d. David Berkey reported that plans are being made to expand the Student Internship Program to Syracuse Law School next.
  - e. Harry Meyer, reporting for the Diversity Committee, said that RPLS is recognized as being active in diversity efforts.
  - f. Mindy Stern reported that we had no applicants for either of the RPLS scholarships this year, and we don't know if the problem is that the scholarships are too meager or the word just is not getting out.
  
7. Report of District Reps

- a. 1st District – Nancy A. Connery reported that the District Reps are working on a brochure to provide to new members. Each committee is asked to provide a short, punchy description of what the committee is doing ... something enticing that will encourage new members to become active with committee work. The descriptions should be sent to Nancy at [nconnery@shoeman.com](mailto:nconnery@shoeman.com).
  - b. 2nd District – Nancy reported on Lawrence F. DiGiovanna's idea of putting up a table at local bar programs to share information about our RPLS. They wanted to do this at a recent program, but unfortunately the venue was not handicapped accessible so they could not participate. Amy will check to see if this problem could be resolved in the future if telephone access is made available in such venues.
  - c. 3rd District – Alice M. Breeding reported that she has been contacting new members. She also attended a 'Meet the Sections' event at Albany Law School; the students she met knew nothing about our scholarships or our activities. She is planning a summer event.
  - d. 4th District – Michelle H. Wildgrube is working an event in conjunction with Alice Breeding. She also plans to have a table for our section at the upcoming Schenectady Bar Association Annual Real Property Seminar.
  - e. 6th District – John E. Jones was present but had nothing to report at this time.
  - f. 7th District – Heather Rogers reported on behalf of Scott A. Sydelnik who is hosting an event on April 30 with the Young Lawyers Section – they will be offering ½ off membership to either the RPLS or Young Lawyers section.
  - g. 8th District – David C. Mineo had a table with handouts at the Erie County Bar's 25<sup>th</sup> Anniversary Real Property Seminar. He is planning a social event for next fall.
  - h. 9th District – Nancy Connery reported for Lisa M. Stenson Desamours. They are planning a joint reception for their districts and contacting 'drop outs' to encourage them to rejoin the section.
  - i. 10th District – Daniel J. Baker attended a 'Meet the Sections' event at Touro Law School. It unfortunately was held in a location that got little traffic. Sandy Pomerantz reported that his efforts have resulted in at least four first timers registered to attend the Summer Meeting.
  - j. 13th District – Toni Ann Christine Barone has been reaching out to dropped members. She is working on a plan for a multi-night CLE for fall and wants to partner with the Young Lawyers Section. She participated in the internship program with St. John's Law School, and the intern has been offered a summer job. Harry Meyer suggested that an article about this be included in our journal.
8. Report of Standing Committees
- a. Lawrence J. Wolk reported that all is fine with CLE. They are trying to get younger members involved. Karl Holtzschue advised that the need for written materials depends upon the program being presented. Sometimes

it is important to have the written materials that are being covered in the seminar; he was skeptical about the CLE Notepad at first, but thinks it works well for many seminar programs and encouraged everyone to give it a try.

- b. David Zinberg reported that Commercial Leasing held a successful committee meeting in March. Another meeting will be held in June.
- c. Karla Corpus, reporting on behalf of Condemnation, Certiorari, and Real Estate Taxation, reported on a 4<sup>th</sup> Department opinion that is in direct contravention of 3<sup>rd</sup> Department case law – Torok Trust v. Town of Alexandria, 2015 NY Slip Op. 02632 (copy attached, along with a legal alert explaining the case.)
- d. Dennis H. Greenstein reported that Condominiums and Cooperatives will have a committee meeting in June. Their committee gave comments to the City Bar on a revised condo contract.
- e. Joel Binstock reported that Green Real Estate is planning a program which had to be postponed until fall.
- f. Peter A. Kolodny is the new co-chair of Landlord and Tenant Proceedings, replacing Ed Filemyr who will remain an active member of the committee. A CLE committee meeting is scheduled for May 6 on Yellowstone actions.
- g. Legislation – A new chart of pending legislation came out and is posted on the RPLS web site.
- h. Richard C. Singer reported that Low Income and Affordable Housing is looking for an upstate co-chair and working on plans for a CLE.
- i. Harry G. Meyer reported that the contacts and creative efforts of the District Reps have had an impact on Membership. We need to be hands on, and their efforts are appreciated.
- j. Anne Reynolds Copps reported that Not-for-Profit Entities and Concerns held a well-attended CLE in January, which was successful in spite of a few technical glitches. They also held a one hour CLE yesterday. The AG issued guidance this week so a new CLE is planned and the checklist will be updated. The committee submitted a succession plan to David.
- k. Nancy A. Connery reported that Professionalism has 2 summaries lined up to be posted on the web site. Patricia Watkins reported that the committee plans to post escrow forms on the web site as well.
- l. Maria T. DeGennaro, the new co-chair of Public Interest, expressed that she is looking forward to working on this committee.
- m. Brian G. Lustbader reported that Real Estate Construction Committee is working on form agreements. He also is preparing a CLE for the Summer Meeting.
- n. Heather C.M. Rogers reported that after analysis of the committee members, it made sense to merge the commercial and residential committees into one committee on Real Estate Financing. Their committee proposed a Public Interest committee to explain regulations issued by the court system. Richard Fries reported on new rules regarding high volatility commercial real estate which will require lenders to reserve

more capital against risk in certain types of loans; attached to the minutes is a memo supplementing the committee report, which includes a copy of a recent case in Bankruptcy Court for the District of Delaware, Energy Future Holding Corp., case #14-10979 and a FAQs memo on Regulatory Capital Rule issued jointly by the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System and FDIC.

- o. Robert M. Zinman reported that Real Estate Workouts and Bankruptcy has a meeting scheduled during the Summer Meeting.
  - p. Shelby D. Green reported that the Student Internship Committee is working on forms to use in this program.
  - q. Joseph D. DeSalvo reported that Title and Transfer is working on a succession plan, and otherwise the DFS proposed regulations currently are the main focus of this committee.
9. Old Business/ New Business – Leon Sawyko pointed out that this is the last meeting of the Committee chaired by David Berkey. He commented on the fact that over the past year the RPLS increased membership, increased student involvement, launched an updated website, implemented plans for use of the section surplus and increased activities by District Reps. Leon thanked Dave for providing the leadership which was required to accomplish these initiatives. These comments were enthusiastically supported by the entire Committee.
- 10.
11. Next Executive Committee Meeting –  
July 16, 2015 – Basin Harbor Club & Resort, Lake Champlain, VT
12. The meeting was adjourned at 12:10 P.M.

Respectfully Submitted,

Patricia E. Watkins, Secretary