

REAL PROPERTY LAW SECTION – Executive Committee
Wednesday, January 28, 2015
3:00 PM to 5:00 PM
Rendezvous Room, 3rd Floor
New York Hilton Midtown
1335 Avenue of the Americas
New York, NY

1. Call to Order – The meeting was called to order at 3:10 P.M. The Chair welcomed everyone to the meeting. [Agenda attached] The Chair then introduced David Miranda, President Elect of the NYS Bar Association, who spoke about various initiatives of the association including the following: providing resources to the sections; expanding the Pathways to the Professions Program, aimed at engaging law students in the association, to all New York law schools in the coming year; and encouraging sections to submit reports to the Executive Committee and the House of Delegates in order to get the strength of the larger bar to section legislative initiatives. Dave shared his e-mail address, dpm@hrfmlaw.com, and asked that members contact him with questions and comments.
2. Approval of the October 17, 2014 Meeting Minutes – Patricia E. Watkins, Secretary: On motion made by Harry Meyer and seconded, the minutes were unanimously approved.
3. Remarks of Chair – David L. Berkey
 - a. The Chair welcomed Elizabeth P. Siegel, the New Co-Chair of the Public Interest Committee, who will co-chair with Elizabeth Woods.
 - b. The Chair also welcomed Daniel Zinman, who is a new member of the Real Estate Workouts and Bankruptcy Committee. He teaches bankruptcy law at St. John’s and is a consultant to Golenbock Eiseman.
 - c. The Chair reported that the NYSBA November/December 2014 State Bar News included a Profile of the Real Property Law Section, with a message from the Chair and an article by Brian G. Lustbader titled “Gaining Access to Neighboring Properties For Protection During Construction.”
 - d. The Chair reminded all committee co-chairs of our By-Law regarding Committee Chair tenure. In order to promote continuity among committee chairs, co-chairs generally are to serve for five years and plan for transition thereafter in order to bring in new blood with fresh ideas and new energy. All committee chairs were requested to submit a transition plan to David by the next Executive Committee meeting on April 17.
 - e. Susan M. Scharbach and Michael P. Stevens, co-chairs of the section’s Web and Electronic Communications Committee, announced that the RPLS Community, a revamped RPLS web site, has been launched. This is a private on line professional forum for members which will replace the list serve. They introduced Brandon Vogel, NYSBA’s Social Media and Web Content Manager, who gave a power point presentation demonstrating what is available on the RPLS Community and how to use it. Brandon will send a copy of his power point slides. Questions can be

directed to him at bvogel@nysba.org or 518/487-5644. He encourages downloading the mobile app which is available.

4. Meetings Reports
 - a. 2015 Annual Meeting – New York Hilton, NYC -- Leon T. Sawyko reviewed RPLS events for Wednesday and Thursday.
 - b. 2015 Summer Meeting, July 16 to 19 – Basin Harbor Club & Resort, Lake Champlain, Vermont – Mindy Stern described the CLE topics planned for the summer meeting. She has kept a half hour time slot open for one more topic; if anyone has an idea for a ‘hot topic’ (a recent case, pending legislation or other timely topic) they should contact Mindy.
5. Report of the Nominating Committee – Benjamin Weinstock reported that the Nominating Committee unanimously nominated Tom Hall as the next secretary of the section.
6. Report of the Awards Committee – Leon T. Sawyko reported that the Awards Committee met without the committee chair and unanimously agreed that the Professionalism Award this year should be given to the chair of the committee, Peter Coffey. When Peter subsequently convened the first meeting of the committee Peter was informed of the committee’s decision. Leon gave an excellent impersonation of Peter’s protestations to this decision, and confirmed that the committee overruled Peter’s veto of their decision, with the award to be presented at the luncheon on Thursday.
7. House of Delegates Report – Our representatives are very active in HOD matters, serving on various committees and task forces. Samuel O. Tilton reported on the following matters addressed at the last HOD meeting:
 - a. A compromise has been reached on pro bono reporting requirements, with a task force has been set up between the bar and the judiciary. So for the time being that issue has been defused.
 - b. A motion was defeated which would have required a member of the judiciary who addresses the HOD to be subject to a question and answer period.
 - c. A proposal to subject memoranda on pending legislation to be subject to an additional level of review, which seems impractical in light of the very brief time period often available to comment on proposed legislation at the end of each legislative session, is still pending with the Section Caucus as an active participant.
 - d. Revamping of the administration of CLE is still pending with the Section Caucus as an active participant.
 - e. Adoption of the Uniform Bar Exam has been delayed for additional study.

Ira Goldenberg, who serves on the NYSBA Executive Committee, commented on the following issues which are the current focus of the section caucus:

- a. Advocacy guidelines for when and how sections can comment on pending legislation continue to be studied, as it can be embarrassing when different sections give conflicting comments on the same piece of legislation.
- b. The state bar continues with efforts to resolve issues which result from the ‘three-legged stool’ structure of the organization ie: CLE programs being offered through the CLE department, the sections and the meetings

department. There is a conflict between the CLE department and the sections. The CLE department is a profit center for the organization, which at times conflicts with the sections' goal of providing education opportunities for its members. The Section Delegates Caucus is taking a strong position that sections are there to support sections members, not to make money for the organization.

- c. Efforts are being made by the Section Delegates Caucus to amend the NYSBA by-laws to include a section representative on the association's nominating committee.
 - d. Section surplus continues to be a concern. There currently are five sections with surpluses in excess of \$300,000. Sections are encouraged to use surplus funds in productive ways.
8. Section Projects and Initiatives
- a. David Berkey, in the absence of Spencer Compton, finance officer, reported on the Section's Budget. A projected surplus of \$150,000 to \$160,000 is expected as of the end of the calendar year. The proposed budget for 2015 [copy attached] is balanced, with \$200,100 in income and \$200,100 in expenses. It is similar to the 2014 budget (a 1.5% increase over last) and takes into account use of surplus funds to support our initiatives to supplement the costs for new attendees and young lawyers to attend the 2015 Summer Meeting. On motion made by Gerald Goldstein a motion to adopt the proposed budget was seconded and unanimously approved.
 - b. Section Calendar – Gerald Goldstein continues to update the Section's calendar and plans to submit the calendar to the bar office each month to be posted on the web site Community. Please e-mail notifications to him of all meetings, events and CLE programs to be included on the calendar. He will be forwarding the calendar to Albany about a week before the end of each month so that it can be entered into the computer systems.
 - c. Task Force on Draft Insurance Department Regulations – Gerard Antetomaso reported on the status of title agent licensing. Title agents are now required to be licensed, as of January 1, 2015. The temporary regulations issued in September have now been extended to February 20. These regulations contain an inconsistency with the statutory language regarding the requirement for multiple sources of income which the Task Force will continue to monitor and work to resolve.
 - d. Student Internship Program – David Berkey reported that the program in the participating law schools is doing fine. Efforts will be made to include Syracuse and Cardozo in the program in 2015.
 - e. Diversity Committee – Harry G. Meyer attended the Trailblazer Awards Ceremony and Diversity Reception on Monday evening. We are a co-sponsor of this event. Attendance was adversely affected by the snow storm. A very moving statement was given that it is not just about numbers, but also about empowerment – giving younger people and people of color power within law firms.

- f. NYSBA Publications – A concern had been raised about the content of publications distributed at CLE programs and whether sections should review publications that are promoted at NYSBA CLE programs.
 - g. Scholarships – Susan Lindenauer, from the NYSBA Foundation Board, addressed the Committee and advised that the Foundation raises money for law related projects, giving grants to non-profit organizations, legal services organizations and bar associations, and administering cy pres awards, fellowships and scholarships. This past year the two scholarships sponsored by RPLS were announced by the following means: an e-blast to 8,000 students in the bar association’s data base; posting on the Foundation’s Facebook and LinkedIn pages and on the Foundation’s web site; an e-blast to 58 law school offices (admissions, etc.); posting on the web sites at several law schools. The Foundation is open to other suggestions as to how to get the word out to students, and encourages RPLS members to join in these efforts; personal outreach is important. The chairs of the Scholarship Committee will work with the Foundation in 2015. Anyone who has ideas about other ways to get word out about our scholarships should send an e-mail to Joel Sachs – jsachs@kblaw.com -- and Mindy Stern – mstern@schoeman.com -- with a cc to David Berkey – dlb@gdblaw.com.
 - h. Home Foreclosure Procedures Model Act – Uniform Laws Commission. Heather Rogers reported that we are entering the third year of what was supposed to be a two year process. There are a few issues on which the different constituencies have been unable to agree. Another meeting is scheduled for late February. Heather expressed doubt that New York would adopt the uniform law, even if these issues were to be resolved.
9. Report of District Reps
- a. 1st District – Nancy A. Connery reported that another theater event will be planned for next fall, as last fall’s event was inexpensive and well received. A proposed letter to be sent to new section members has been drafted. She would like to include a description of current projects of each committee with that letter. David Berkey requested that committee chairs include that in their transition plan to be submitted by the April meeting.
 - b. 2nd District – Lawrence F. DiGiovanna is planning an event for next spring.
 - c. 3rd District – Alice M. Breeding attended the Meet the Sections Event held at Albany Law School, and as a result has two students shadowing her. She is planning a district event to be held in either August or September.
 - d. 4th District – Michelle H. Wildgrube held a successful Holiday Event with four other sections.
 - e. 6th District – John E. Jones is chairing a local bar association CLE this spring with his local bar association and will plug section membership at that event.
 - f. 7th District – Heather Rogers reported on behalf of Scott A. Sydelnik who will be holding a March Madness Bar Night on March 19 with the Young Lawyers Section.

- g. 8th District – David C. Mineo spoke at a local CLE on November 27 with over 40 attorneys in attendance. A discount was given to NYSBA members and our section provided lunch.
 - h. 9th District – Lisa M. Stenson Desamours plans to partner with the 1st District again this spring at an event to be held at a museum.
 - i. 10th District – Daniel J. Baker and Sanford A. Pomerantz held a successful Toys for Tots Holiday Event with the Young Lawyers Section.
 - j. 13th District – Toni Ann Christine Barone is planning a networking event with the Young Lawyers Section. She also has an intern from St. John’s Law School.
10. Reports of Standing Committees
- a. Attorney Opinion Letters – Gregory P. Pressman reported that the committee held a lively meeting today and discussed many topics.
 - b. CLE – Joseph M. Walsh submitted a written report which is attached to the minutes. Joe attended the meeting by phone, but the connection was so bad that could not hear or be heard, and he ultimately left the meeting.
 - c. Commercial Leasing – David J. Zinberg reported that they held a meeting in December which featured an overview of recent cases. Two more programs are planned for spring.
 - d. Condemnation, Certiorari, and Real Estate Taxation – Jim Grossman reported on behalf of Karla Corpus that two exemption cases were confirmed by the Court of Appeals. Matter of Maetrem of Cybele, Magna Mater, Inc. v McCoy, et al, 2013 NY Slip Op 07788, in which 420-A exemption was granted based upon use primarily for charitable/religious purposes. Matter of Merry-Go-Round Playhouse, Inc. v Assessor of the City of Auburn, 2014 Slip Op 07929, in which apartments owned by an arts organization housing actors was held to be fully exempt. Copies of both cases are attached. Jim also discussed a Second Department case involving the level of proof required for an assessor to have an appraiser enter your house, even if you have challenged your assessment. The committee will follow this case.
 - e. Green Real Estate – Nicholas M. Ward-Willis reported that a CLE program is being planned with presentations by the trustee and general counsel of the Racer Trust, which was created to clean up former General Motors properties for redevelopment.
 - f. Landlord and Tenant Proceedings – Edward J. Filemyr referred to an Airbnb case reported in the law journal where a rent control tenant was not permitted to cure. The committee is holding a CLE program tomorrow at 6 PM on the topic of Bed and Breakfast occupancies.
 - g. Legislation – Samuel O. Tilton confirmed they are working on a legislative chart which will be out soon.
 - h. Low Income and Affordable Housing – Richard C. Singer is looking for a new upstate co-chair to work with him on this committee.
 - i. Membership – Harry G. Meyer expressed thanks to the District Representatives for their hard work and many activities.

- j. Not-for-Profit Entities and Concerns –Susan E. Golden reported that she and co-chair, Anne Reynolds Copps, have planned a CLE program for Friday morning. They used student interns to assist with research for the program.
 - k. Professionalism – Nancy A. Connery reported that a summary of Opinion 964 was posted on the list serv earlier this week. A summary of Opinion 958 is to be posted next. The Committee is considering preparing a form to be used for post-closing escrow agreements which are often drafted at the closing table. The revitalized Escrow Task Force should review any proposed escrow agreement form created. Ben Weinstock reported that the Escrow Task Force has met and is working on what topics this task force will address; he expects to have a more substantive report by the next meeting.
 - l. Publications – Marvin N. Bagwell reported that the winter edition of the journal came out two weeks ago. The spring edition is being edited now. They are currently looking for articles for the summer edition.
 - m. Real Estate Construction Committee – Brian G. Lustbader reported that they ran a successful CLE program a few weeks ago and are planning another CLE program for spring. The committee also continues to work on a contract rider to the standard architect agreement. The committee needs an upstate co-chair.
 - n. Real Estate Financing – Heather C.M. Rogers reported that the committee held a great meeting this morning with several other committees which was well attended and involved a lively discussion, but they ran out of time to cover all of the planned topics. They are considering a CLE program for spring in order to expand on some of these subjects.
 - o. Student Internship Committee – Shelby D. Green reported that they are looking for host law firms for “externships” for Pace Law students.
 - p. Title and Transfer – Gerard Antetomaso reported that the committee will meet tomorrow after lunch.
11. The Chair commented on all of the great substantive and procedural work being undertaken by our members and committees. He encouraged everyone to keep up the good work. Please forward copies of any committee reports to him.
 12. Next Executive Committee Meetings –
April 17, 2015 – Harvard Club, NYC
July 16, 2015 – Basin Harbor Club & Resort, Lake Champlain, VT
 13. The meeting was adjourned at 5:05 PM.

Respectfully Submitted,

Patricia E. Watkins, Secretary