

Minutes of the April 2, 2008 Real Estate Section Steering Committee Meeting

The monthly meeting of the Real Estate Section Steering Committee of the Boston Bar Association was held at the offices of the BBA on Wednesday, April 2, 2008 at 12:00 noon. Attending the meeting were Bruce Tribush, Co-Chair, Rob Parker, Peter Farrow, Ray Estes, Ken Gould, Dayna Hutchins, Linda Bosse, Sandy Moskowitz, Andy Cohn, Tim Pecci, Frank DeVito and Karen Douglass of the BBA.

Bruce opened the meeting by addressing the need for nominations for section and committee co-chairs. All indications point toward potential nominees continuing the talented and experienced leadership shown by the current co-chairs. With the spring season in full swing and summer just around the corner, committees will begin their focus on programming for the fall in order to assure a full schedule of events, seminars and meetings for all BBA members.

Peter Farrow and Ken Gould, reporting for the Legislative and Public Policy Committee, provided an update on the progress of the revised homestead bill, co-authored by REBA and the BBA, as it makes its way through the state legislature. The initiative has received some positive press in recent weeks and all those involved hope for a vote adopting the new law by the end of the current legislative term in July.

New Lawyers Section liaison Ray Estes spoke about the open house scheduled for April 29, 2008 beginning at 5:30 p.m. at the BBA, which will include brief presentations by substantive section and committee co-chairs in an attempt to increase both awareness of and participation by newer and younger lawyers in the substantive sections and their committees. Key aspects of the presentations will address what each section is and does, the leadership structure and programs offered and opportunities for newer lawyers to become more involved. A reception will follow which promises to include valuable networking opportunities for both newer and more experienced members of the Bar. We hope to see you there. Additionally, Ray mentioned the upcoming annual Law Day in the Schools program the BBA coordinates whereby BBA lawyers go to elementary, middle and high schools to present or teach students on a particular topic. Over the years, thousands of Boston students have benefited from the program and many lawyers find the experience rewarding year after year. This year the topic will be "The Rule of Law" and the program will take place over three days-- May 6, 7 and 8, 2008. More details will be made available by the BBA in the coming weeks.

Reporting for the Affordable Housing Committee, Dayna Hutchins and Linda Bosse recounted a successful BB session focusing on the recent SJC decision in *DiLiddo v. Oxford Street Realty, Inc.* in which the Court interpreted the scope of tenant protection against discrimination afforded in M.G.L. c. 151 §4(10) for the first time in twenty years. In the case, Department of Housing and Community Development (DHCD) regulations applicable to a prospective tenant's rental voucher required that all leases with a voucher holder include a limited 30-day termination right. The landlord's agent, a property management company, argued that the economic hardship imposed by such a termination rights was a legitimate, nondiscriminatory basis for a refusal to rent. Zaheer Samee of Frisoli Associates, who represented the successful plaintiff in the case from its inception during his law school years, discussed his experience and the effects of the Court's decision. Dayna and Linda also mentioned the recent rescheduled BB seminar on March 21, 2008 which featured Tina Brooks, Undersecretary of DHCD, discussing the

recommendations of the Massachusetts Special Commission to End Homelessness in its recently issued report.

A CLE seminar scheduled for April 4, 2008 will focus on tax credit equity financing. This program will help attendees to understand how the “sale” of low-income housing tax credits transpires, what syndicators of the tax credit (and their investors) care about, what the implications and incentives are for developers who use equity financing, and how the various legal documents work to memorialize these complicated transactions. Also to be discussed is how the recent downward shift in the capital markets and more rigorous investment standards have resulted in fewer capital dollars being available for investment in affordable housing projects. This program promises to provide participants with an overview of the basic legal structure of low-income housing tax credit projects while offering first-hand insight into the principal business considerations of its investors and developers. A syndicator, developer’s consultant and their respective counsel will discuss salient deal terms and how those terms are translated into the supporting documentation for tax credit equity financing transactions. Those scheduled to speak include Bernard Husser of MMA Financial, Jonathan Klein, Esq. of Klein Hornig LLP, James McDermott, Esq. of Holland & Knight LLP, and Peter Munkenbeck, Esq., a Development Consultant. An upcoming committee session will focus on affordable housing design. Stay tuned.

Frank DeVito and Tim Pecci, reporting for the Real Estate Finance Committee, highlighted their upcoming program scheduled for April 8, 2008 at 12:00 at the BBA focusing on the Commercial Mortgage Backed Securities (CMBS) market, both its history and current state of play. This BB seminar will feature Lawrence E. Uchill of DLA Piper US LLP and promises to appeal to both novice and seasoned real estate finance practitioners.

Finally, committee members discussed ways to increase both the level and quality of participation with regard to initiatives on which the section is asked to provide formal comment. Frequently, few members submit responses or even find the time to read the initiatives circulated for consumption to enable them to respond in a meaningful way. Suggestions aimed at improving the status quo included the creation of a special sub-committee with rotating responsibility for review and comment assigned, opening the process up to section and committee member firms, and passing on individual comments to the leadership rather than taking a specific formal position on a particular issue for a variety of reasons. Discussion on this matter will continue and several committee members have pledged to increase their efforts in this regard.