

Minutes of the December 5, 2007 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, December 5, 2007 at 12:00 noon. Attending the meeting were Bruce Tribush, Co-Chair, Dayna Hutchins, Peter Farrow, F. Robert Parker, Deborah Eliason, Raymond Estes, Samuel Moskowitz, Frank DeVito, Tim Pecci and Ken Gould.

Bruce Tribush opened the meeting with discussion of the highlights from the recent Section Co-Chair Roundtable held on November 13. The Roundtable focused on clarifying the ongoing mission of the BBA and its substantive sections and what Bruce referred to as "section best practices." Specific topics discussed included providing younger members of the BBA with greater opportunity to speak out and be more involved on a substantive level, changing the structure of regular section meetings to perhaps move away from committee updates focused on brown bag (BB) lunch meetings and CLE seminars and instead incorporate discussion about more substantive issues or even topical presentations, opening substantive section steering committee meetings to the general BBA membership, opportunities to write for the Boston Bar Journal, augmenting the content of monthly section newsletters to include follow up reports of recently held BB lunch seminars and other initiatives being explored by the BBA leadership as it formulates a long range plan for the coming years. Specific questions posed by the BBA leadership intended to assist in the development of a long-term plan for the BBA were discussed, as they were to be in all substantive section meetings this month. Feedback on these "critical issues facing the BBA" is requested by mid-January.

Peter Farrow and Ken Gould of the Legislative and Public Policy Section led a discussion about the status of the proposed homestead bill and a planned working group session in the next week or so to address the perceived differences between the BBA proposal and the version of the bill submitted by REBA in the hopes of finding common ground. An e-mail will be going out detailing specifics and those interested in participating are encouraged to review the REBA proposal in advance of the session and assist the group in formulating a final proposal to submit to council by January 21, 2008 and ultimately to the legislature for its consideration thereafter. The committee expanded the homestead bill discussion to address the dynamic that seems to exist between the BBA and REBA on this issue and the concern about the disparate motives of the two organizations on this issue and on a broader scale.

Dayna Hutchins, reporting for the Affordable Housing Committee highlighted a BB lunch scheduled for December 6, 2007 focusing on distributions and uses of state Community Preservation Act (CPA) funds. The CPA has been a controversial subject in recent years and many towns in the Commonwealth have flirted with repeal proposals from citizens who question the need for the fund and how the money is spent.

Reporting for the Real Estate Finance Committee, Frank DeVito and Tim Pecci delivered post-mortems of a successful BB on the topic of zoning and permitting opinions. Bob Fishman of Nutter, McClennen & Fish LLP, an acknowledged expert in the zoning and permitting arena, gave an informative overview on the subject including a particular focus on types of transactions in which such opinions are rendered, lender requirements, and frequently negotiated points.

Deborah Eliason, co-chair of the Title and Conveyancing Committee, detailed a recent successful BB lunch and mentioned a much anticipated event to be co-sponsored by the Bankruptcy Section on predatory lending practices. The two part program tentatively scheduled for April/May will address the sub-prime lending crisis and credit crunch which has greatly affected both the local and national economies for several months as well as how various segments of the relevant power participants are responding, including the Attorney General, Governor, City of Boston and members of the lending community.

Reporting for the Leasing Committee, Rob Parker highlighted the recent brown bag lunch seminar on Insurance Considerations in Commercial Leases. Personnel from Albert Risk Management Consultants of Needham discussed prudent (vs. typical) insurance coverage planning and other risk management considerations for commercial landlords and tenants. A future program is in the works addressing the extension and expansion of purchase options in leases and the practical effect of those rights once exercised. More to come.

Sandy Moskowitz, reporting for the Pro Bono Committee, reminded the committee about a second round training session for both return and new participants in the Lawyer for a Day program scheduled for December 10, 2007 at 4:30 p.m. The session will include a segment entitled "Running the Mile" which is the name given to the process of formulating and organizing ones case for trial beginning with initial client contact through trial. Presenters at the training session will include the Honorable Jeffrey Winik, First Justice of the Boston Housing Court and Robert B. Burdick, Director of the Civil Law Clinical Program at Boston University Law School as well as a BBO representative to speak on ethical considerations in the representation of indigent clients. The program has expanded this year to go beyond staffing tables with lawyers offering advice to pro se landlords and tenants and will now also allow volunteer lawyers to accompany parties to mediation sessions without filing a general appearance in the case and even try cases. Sandy explained that the Trial Attorney Project offers opportunities for volunteer lawyers to gain invaluable courtroom experience through the representation of clients at jury-waived or jury summary process trials. Cases are screened and referred to volunteer lawyers only if:

- (1) there are viable claims or defenses,
- (2) early trial dates can be set (usually within 60 days from the referral),
- (3) the cases are likely to be tried in a single day, and
- (4) the other parties are represented by counsel.

The assigned cases are initially scheduled for a telephonic status conference with a Housing Court judge, at which time a trial date is set and discovery and other pre-trial issues are addressed.

A reception to formally thank program participants is being scheduled for the spring.

Best wishes for a happy and healthy holiday season!