

**MINUTES OF THE FEBRUARY 16, 2012 MEETING OF THE
EXECUTIVE COMMITTEE OF THE REAL PROPERTY LAW SECTION OF THE
STATE BAR OF NEVADA**

In attendance via teleconference were Michael Buckley, Chris Childs, Colleen Dolan, Mary Drury, Doug Flowers, Pierre Hascheff, Craig Howard, Angela Otto, DeArmond Sharp, and Matt Watson. Layne Butt, Karen Dennison, Elizabeth Fielder, Mandy Shavinsky and Sandi Turner, were absent. Real Property Section members joining in to listen were Michael DeLee and Shawn Pearson. The meeting commenced at 4:00 p.m. Deborah Hayes, legal secretary at Jones Vargas, took the minutes for the meeting.

1. The minutes of the January 17, 2011 meeting were approved.
2. *Treasurer's Report:* DeArmond Sharp reported that by the end of December the Real Property Section had \$9,873.43. The January report had not yet been received.
3. *CLE Programs: Professionalism in a Box:* DeArmond Sharp reported that Professionalism in a Box will take place on April 19th in Las Vegas and April 20th in Reno. Speakers have been arranged and the State Bar had the information they needed for the program announcement. Receptions were still in the planning stages for both locations.

San Diego CLE (June, 2012): Michael Buckley reported Stan Hunteron and Judge Susan Scann agreed to participate in presenting "Criminalization of What Use to Be Bad Acts."

Mike Rubin Lecture: Mary Drury reported Rob Kim from the Business Law Section had received the votes in connection with a joint sponsorship of the Mike Rubin lecture, however, he still needed to tally the results. She would follow up with him. DeArmond Sharp suggested having the lecture in both Las Vegas and Reno which the Executive Committee agreed to consider.

4. *Executive Committee Nominations:* Layne Butt, Michael Buckley, Karen Dennison and DeArmond Sharp will be up for re-election as Executive Committee members. Voting will take place at the Annual Meeting. Michael Buckley and DeArmond Sharp have agreed to serve another term. Michael Buckley will contact Karen Dennison regarding her re-election. Mary Drury nominated Shawn Pearson to serve upon the expiration of Layne Butt's term. The Executive Committee approved the nomination.

5. *Listserve:* Michael Buckley reported a good response was received on Shawn Pearson's Listserve inquiry regarding deficiencies after short sales. Shawn has agreed to compile a summary of the responses reflecting sentiments and themes to his question.

6. *Real Property Section Proposed Legislation:*
 - (a) NRS 107.030(9). Matt Watson will add his suggested language to Covenant #9 which will then be circulated to the Executive Committee for approval.

(b) AB 284 (Affidavit Form). Matt Watson will add his suggested language which refers to the UCC and personal knowledge. This will also be circulated to the Executive Committee for approval.

(c) SB 402(2011). DeArmond Sharp suggested amended language in connection with attorneys' fees which he will forward to Michael Buckley for review.

7. *Current Matters of Interest:* DeArmond Sharp reported that the Bankers' Association said they would be filing Amicus Briefs which he has sent over to them but has not, as of yet, received any feedback.

Michael Buckley reported he reviewed an unpublished Order by the Supreme Court where a borrower sued Deutsche Bank to stop a foreclosure because they didn't have the original note. Deutsche Bank moved to dismiss which the District Court approved and the Supreme Court upheld. The position was taken by the courts that nothing was provided in the statutes that said you needed the original note to do a non-judicial foreclosure.

Pierre Hascheff posed the question in connection with AB 273 whether a junior and senior can pursue a deficiency under a note and obligation if there is no trustee's sale. In reading the current statute, it's interpreted that you cannot pursue a deficiency in a foreclosure without a foreclosure or trustee's sale, however, in looking at AB 273 it indicates a deficiency can be pursued even if there is a short sale without a trustee's sale. It was concluded that lenders are now trying to get the borrower to confirm or reaffirm an unsecured obligation so it's outside of the deficiency judgment statute and they then have the independent right to sue the borrower irrespective of any deficiency legislation.

6. *Committee Reports:*

Common Interest Communities. Michael Buckley reported the committee had a discussion on an article in the Loyola University Chicago Law Journal entitled "Community Collateral Damage; A Question of Priorities." The article expresses concern that HOAs are in big trouble because of what's going on in the residential lending area. It proposes that the priority of HOA liens start increasing at some point in time when the lender doesn't foreclose.

The author does not believe that NRS Chapter 116 gives HOAs a true first lien.

Real Estate Finance Committee. Doug Flowers reported they are still putting out monthly blurbs and if anyone has a topic they would like to see addressed, please let him know. He suggested a possible topic would be providing favorite websites or online resources that would be useful in real estate practice and encouraged everyone to submit their favorites.

There was no further business and the meeting adjourned at 5:05 p.m. The next meeting will be held on March 15, 2012, at 4:00 p.m.