

**2003-2004 ANNUAL REPORT**  
**REAL PROPERTY LAW SECTION**

The Real Property Law Section continues to be one of the more active sections in the State Bar of Michigan.

**Continuing Legal Education.**

We continued our long practice of presenting the Homeward Bound Series, which consists of monthly seminars on current real estate topics offered in conjunction with the Institute for Continuing Legal Education.

For a second time, the traditional afternoon format was replaced by a breakfast roundtable format for two of the sessions. The goal in using this format is to provide an opportunity for more interactive participation. In each case, one of the Section's special committees organized an introductory presentation by a key note speaker or panel, followed by discussions at each of the breakfast tables on topics led by designated people.

The Section also continued with its quarterly publication of the Real Property Review, containing articles of interest on topics of real estate law.

**Summer Conference.**

In July, 2003, our summer conference was held at Crystal Mountain. Again, CLE was an important part of the event, with breakfast roundtables held on Thursday and Friday morning, and presentations and workshops on Thursday. The Section was especially honored to hear a presentation on Saturday morning by the Honorable Marilyn J. Kelly, Michigan Supreme Court Justice. The rest of the time was devoted to enjoying the resort facilities.

The Annual meeting of the section was held in conjunction with the 2003 Summer Conference will be at Crystal Mountain. This permitted much greater participation by Section members than was the case in prior years when the annual meeting was held in conjunction with the annual meeting of the State Bar of Michigan, which was generally held in September. By moving the annual meeting up to the summer conference in July it also permitted the Council to have an earlier start on the activities for the upcoming year.

### **Winter Conference.**

In March, 2003, the Section held a Winter Conference at the Four Seasons Hotel in Toronto, Canada. The conference program had an international dimension and focused upon Canadian law applicable to real estate purchases and its interaction with applicable Michigan law. The size of the group permitted a great deal of interaction and participation in the conference programs.

### **Legislation**

We continued to bring the expertise of Section members to bear on legislation. The Section provides draft legislation for areas that would benefit from clarification, comments on bills that potentially interfere with the operation of the real estate system, and provides suggested alternatives for bills that do not accomplish their stated purpose (often due to some misunderstanding about real estate law).

About ten years ago the Section Council decided to become more active on the legislative front after several bills were passed that inadvertently had an adverse impact on real estate issues. Initially we relied on a lobbyist and Section members located in Lansing to identify relevant bills. However, in recent years the Michigan Legislature created a web site that has become an increasingly powerful tool for identifying and tracking legislation. Today we use the lobbyist primarily to determine the political realities of bills that we have identified as relevant (is the bill likely to move forward, who are the interested constituencies, etc.), and to assist us in developing the most effective presentation of the section's comments or positions.

A key development over the last year was the passage of the Judgment Lien bill, which was opposed by the Section as potentially interfering with and/or increasing the cost of real estate transactions. While the legislation did pass over the objection of the section, the bill as passed did include many provisions suggested by the Section over a number of years that operate to at least minimize the adverse effects of the bill.

### **Amicus Briefs.**

The Section continues to take an active role in seeking permission to file amicus briefs. Most recently, the Section was asked by the Michigan Supreme Court to prepare an amicus brief in the case of Michigan Department of Natural Resources v Carmody-Lahti Real Estate, which involves the question of the extinguishment of an easement as a result of non-use and other actions of the grantee. The Section takes great pride in being called

upon by the Michigan Supreme Court and Court of Appeals in being asked to provide its insight on issues of real estate law.

### **Technology.**

The Section continued to accelerate its use of computer technology as a mechanism to deliver information to its membership. The use of electronic communication has permitted the Council of the Section to take timely action on matters of some urgency, especially as related to the Section's public policy advocacy.

The Section's Council meets monthly, and substantial agenda materials are distributed to approximately 30 people prior to each meeting. This year, we continued the practice initiated in the prior year of distribution by e-mail, allowing materials to be considered on a very timely basis.

The Section continued to actively work on establishing listservs for each of our special committees, with the hope that, among other things, this will encourage participation by Section members across the state.

### **Long Rang Planning.**

The Section's bylaws include the following mandate:

The purpose of this Section shall be to study the laws and procedures pertaining to Real Property Law and to promote the fair and just administration of Real Property Law; to study and report upon proposed and necessary legislation, including, but not limited to, pending legislation and drafting and introducing legislation; to study and report on pending litigation, including, but not limited to, the filing of amicus curiae briefs to promote throughout the State of Michigan the legal education of members of the Bar and the public on Real Property Law by sponsoring meetings, institutes and conferences devoted to Real Property Law, by the preparation and dissemination of books, booklets materials, pamphlets and brochures with respect thereto and by preparing and sponsoring and publishing legal writings in this field. The Section shall endeavor to promote professional responsibility and the prevention of malpractice among the members of the Bar. The term 'Real Property Law' shall include, but not be

limited to. the law of mortgages, liens, encumbrances,  
property taxes, land titles, land use, zoning, leases, land sales,  
water law, riparian rights, conveyancing, taxation,  
condominiums and environmental law.

During the previous year the Council established an ad hoc committee to consider long range planning issues, including membership participation, continuing legal education, technology, pro bono, and other matters of interest. The committee commenced its work at the 2004 Summer Conference.

Lawrence M. Dudek  
2003-2004 Chairperson

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