NEW YORK STATE BAR ASSOCIATION

REAL PROPERTY LAW SECTION

CONDOMINIUMS AND
COOPERATIVES COMMITTEE

MISSION STATEMENT

July 17, 2007

General Mission

The Condominiums and Cooperatives Committee has established an open membership policy, welcoming all interested members of the Bar. The goal of the Committee is to represent the Bar in general in the areas of law affecting condominiums, cooperatives and homeowners associations. The Committee's intention is to draw from lawyers who counsel clients in all areas of the industry, ranging across all regions of New York State and taking into account disciplines that might affect individual owners, sellers, purchasers, residents, investors, tenants, sponsors, apartment corporations, condominium and homeowners associations, lenders, regulators, the judiciary, lawmakers, brokers, real estate professionals and any other interested parties.

The general goals of the Committee are as follows:

1. To educate the Bar regarding current and prospective developments of interest in this area of law.

2. To monitor and recommend changes in law and regulations.

3. To prepare reports, forms and proposed legislation on areas of interest for presentation to the Committee and the Real Property Law Section generally.

4. To coordinate with other groups, mostly those comprised of lawyers, for education or toward other common goals.

5. To provide liaison between the Department of Law Investment Protection (formerly Real Estate Financing) Bureau and the Bar.

6. To communicate the activities and viewpoints of the Committee to the Real Property Law Section and the Bar Association generally and to communicate the activities and viewpoints of the Real Property Law Section and the Bar Association to the membership of the Committee.

7. To provide Continuing Legal Education courses and credit for Committee members and all interested members of the Bar.

8. To educate the public.

Of course, these goals are not stated in any particular order, nor are they anticipated to remain exclusive. It is intended that the Committee's activities will be flexible and its methods will remain fluid to adjust to changes in practice and to changes in the level of activity required and the actual level of participation of membership that is achieved.

As of the date of this Statement, the Committee roster lists just over 248 members. It is the intention of the Committee not to close its ranks and to seek recently admitted attorneys. The Committee encourages diversity of its membership. The Committee would like to continue to operate as a wide clearinghouse for information, with a preference for seminar-type or open-forum type meetings, as opposed to the smaller executive session formats that are more appropriate in certain disciplines.

As part of this effort, the Committee particularly would like to encourage participation from attorneys involved in this area of law who may practice in locations or offer personal backgrounds which have traditionally been underrepresented on the Committee.

The goal of the Committee's efforts, including education, the promulgation of forms and the betterment of practice and of the industry, is to serve the public.

Organization and Meetings

The Committee is headed by two Co-Chairs. There has also been a *de facto* secretary (not named by the Real Property Law Section, but selected by the Chairs) who has produced the minutes for the meetings.

The Committee has typically run two or three full meetings between September and June of each year. There is usually one full Committee meeting in the Fall, and one full Committee meeting in the Spring. The full Committee usually also has a meeting in conjunction with the full meeting of the New York State Bar Association during the last week of January in New York City. For the 2000 - 2007 Annual Meetings the Committee has conducted Continuing Legal Education Programs for its Committee meetings. Depending upon attendance at a particular Summer meeting of the full Real Property Law Section (these meetings are typically not held in a major commercial business area in New York State) the Committee may have a shortened meeting at that time, typically a breakfast meeting, sometimes in conjunction with another committee of the Real Property Law Section.

The Committee believes in the documentation of learning and information conveyed at its meetings. To this end the Committee has developed and promoted the use of relatively fastidious and complete minutes which summarize in some detail the presentations made at the meetings. The minutes are also designed to recognize by name, to the extent practicable, the contributions and comments of members from the floor or in discussion at the meetings. The minutes typically include as exhibits material that is handed out at the meetings.

The Committee has adopted the informal practice of having one of its members serve essentially as a recording secretary to prepare these minutes, which is an arduous, but much appreciated, task. There is probably no other aspect of the Committee's work during the past few years which has received more independent praise and appreciation from the Bar than the dissemination of minutes to the full membership. The minutes usually also serve as the Committee's report to the Executive Committee of the Real Property Law Section.

Typically, the substantive portions of meetings consist of:

1. Discussion of developments communicated by the Executive Committee of the Real Property Law Section.

2. Reports of standing sub-committees of the Committee.

3. Reports of progress of special projects.

4. Updates on pending legislation and on recent case law developments.

5. Presentations of topical interest made either by members of the Committee or by outside speakers. (For the last several years, almost without exception, representatives of the Investment Protection Bureau of the Attorney General's Office have provided "updates" at Committee Meetings.)

Subcommittees

Because of the size of the Committee and its self-imposed mission to present education in the form of updating seminars to a large group, the bulk of the Committee's work is performed by individual subcommittees. This practice differs from that of many other bar associations and many other committees of the Real Property Law Section, but the size of the Committee's membership makes it impossible and undesirable for the Committee to act in an executive fashion. Accordingly, the Committee depends upon and thrives on the participation of its members. All members are encouraged to participate on subcommittees.

The Committee regularly asks its subcommittees to state their own objectives and missions. In addition, where a subcommittee is engaged in a particular special project, it is suggested that a timetable and a target date be enunciated and, to the extent possible, met. Practice has shown that this is the best way for a subcommittee to remain focused, and for the full Condominiums and Cooperatives Committee to discharge its obligation to the Real Property Law Section to complete its projects as needed.

By their nature, some subcommittees tend to be perpetual and others are single purpose or otherwise temporary in nature. Subcommittees also vary in size. The Co-Chairs are deemed to be members of all subcommittees.

From time to time the Co-Chairs may appoint a task force to address specific issues of concern.

We would like to encourage subcommittees in the following areas:

1. Liaison Subcommittee with the Department of Law. Historically, this subcommittee met with the attorneys in charge of the Real Estate Finance Bureau to introduce and to discuss areas of concern to practitioners dealing with the Bureau and to communicate concerns of the Bureau to the Bar generally. The Liaison Subcommittee has been dormant for many years and we intend to reach out to the Department of Law to re-activate it. This subcommittee and its predecessor groups had a special mission which was to communicate an objective viewpoint of the various arms of the industry through attorneys who have special insight to the concerns of all groups involved in this area of law.

2. Tax Subcommittee. The Tax Subcommittee typically updates the Bar on current developments and issues relating to income taxation, transfer taxes, corporate taxes, association taxes and the like. Its scope includes concerns of individuals, apartment corporations, condominium and homeowners associations. lenders and sponsors. The Tax Subcommittee has from time to time made inquiries of appropriate agencies to determine positions regarding open areas of law.

3. Legislation Subcommittee. This subcommittee performs two functions. First, it is called upon to help prepare drafts of legislation which may be recommended by the Committee. Second, it reviews pending legislation which is brought to the Committee's attention and, if appropriate, generates a response or memorandum on the Committee's position. It is understood that the State Bar Association's policy prohibits use of names of the Real Property Law Section or State Bar Association without formal authorization and that any presentation of the Committee's position is supposed to include a disclaimer that the opinion expressed is only that of the Committee and not of the Section or of the full Bar Association.

4. Current Case Law Subcommittee. Like the Proposed Legislation Subcommittee, this subcommittee really reflects the efforts of one or two members of the full Committee who bring case law of interest to the full Committee for an updating presentation at regular Committee meetings.

5. Homeowners Associations Subcommittee. This subcommittee examines and raises issues of interest relating to homeowners associations which may not otherwise be reflected in the activities of the Committee.

6. Proprietary Lease Subcommittee. This subcommittee concentrates on (i) developing model forms of important provisions in the relatively standard forms of proprietary leases; (ii) reviewing and commenting on model forms produced by industry groups and (iii) producing a summary of items of concern for an apartment corporation considering the extension of a proprietary lease coming to the end of its term, and for lenders considering refinancing the underlying mortgage of an apartment corporation whose lease expiration is relatively imminent.

7. Condominium Sub-Committee. This subcommittee examines and raises issues of interest relating to condominiums, which may not otherwise be reflected in the activities of the Committee, and includes revisions to condominium declarations and other condominium governing documents.

8 Website Subcommittee. This subcommittee is responsible for coordinating the Committee's postings on the Real Property Law Section's website.

7. Membership Subcommittee. This subcommittee will examine methods of assuring that the segments of the Bar which could benefit from contact with the Committee are aware of its existence and its activities. In addition, the subcommittee will explore the possibilities of expanding diversity in the membership of the entire Committee.

11. Continuing Legal Education Subcommittee. This subcommittee, established in 1999, develops and offers approved MCLE Programs in selected practice areas that involve condominiums, cooperatives and homeowners associations.

12. Condominium Act Revision Subcommittee. This subcommittee shall explore changes in existing statutes regarding common interest communities..

Dated: July 17, 2007

Respectfully submitted to the Real Property Law Section by the Condominium and Cooperatives Committee,

Ira S. Goldenberg
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Co-Chairs

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