

DELAWARE STATE BAR ASSOCIATION
REAL AND PERSONAL PROPERTY SECTION MEETING

Minutes from October 10, 2018 Section Meeting

- (1) October 2018 meeting of the Real and Personal Property Section was held at 4:00p.m. on October 10, 2018 in the offices of Baird Mandalas Brockstedt, LLC in Dover, Delaware.
- (2) Attendees:
 - a. On location: Stephen A. Spence
 - b. By phone: Tom Carney; Debbie Galonsky; Andy Taylor; Virginia Zrake; Michael Kozikowski; Brian Funk; Jon Conly; Adam Singer; Sara Auerbach; Sean McKiernan; Steve Norman; Valerie Carr; Bill Brady; Brian Riffin; Peter Kirsh
- (3) Approval of Minutes: The Minutes for the September 2018 meeting were approved without objection.
- (4) Old Business:
 - (a) The Section discussed the recording of quit claim deeds, concerns about fraud, and possible measures to reduce risk including requiring involvement of Delaware real estate attorney in drafting or recording deeds. Members discussed requiring attorney sign off on deeds and being paid a fee for review and recording. Members discussed whether a title search would be necessary. Members including Steve Norman discussed steps the Recorders' offices could take to limit fraud.
 - (b) Update on the revised Form 5403 and postponement of implementation to January 1, 2019. See (5)(a) below. Also, the Section discussed whether the triggering date is when the closing or recording occurs.
- (5) New Business:
 - (a) Brian Funk updated the Section about the October 2, 2018 Form 5403 CLE and an ongoing effort to educate lawyer, realtors, and other professionals about the revised form. 53 people attended the CLE statewide. Brian and others are going to work on an unofficial guide to assist real estate professionals.
 - (b) Discussion of First-Time-Homebuyer Refund program and forms. Mike Kozikowski told the Section that his office has not observed any problems with the program. Mike suggested people contact Ed Dale in his office for assistance. Andy Taylor noted that the Form 5402 does not need to be attached to the refund application. Bill Brady noted that his office sent out letter and forms to possibly eligible clients.
 - (c) The Section discussed the issue of transfer tax calculation and no-consideration deeds. Multiple members talked about the ongoing discussion with the DOR and NCCo Law Department on this issue. The concern is about the financial and practical challenges of using the FMV instead of the assessed value. Mike Kozikowski shared

- his thoughts on the discussions and offered the services of his office. Certain members are continuing with those discussions and will report back to the Section.
- (d) Andy Taylor told the Section that the BOR is revising the listing agreement and the agreement of sale to mention the need for determine the withholding tax on property sales. This is being done to prompt sellers to seek tax advice.
 - (e) Jon Conly mentioned his observation and concern about the Superior Court being a state-wide court and no longer noting the County in which the case was proceeding, making judgments unclear. It was noted that the case number with its county prefix controls.
 - (f) Steve Norman mentioned an ongoing Chancery case brought by the ACLU regarding the funding of schools and possible impact on taxes. Adam Singer shared his knowledge of the case.
 - (g) The Section discussed whether there are proposed amendments to DUCIOA.
- (6) There being no further business, the meeting was adjourned.

Respectfully submitted,
Thomas P. Carney
Secretary