

**MINUTES OF COMMISSION MEETING**  
**December 13, 2001**

Present at this meeting of the New Jersey Law Revision Commission held at 153 Halsey Street, 7<sup>th</sup> Floor, Newark, New Jersey, were Commissioners Albert Burstein, Hugo Pfaltz, Jr. and Peter Buchsbaum. Professor William Garland, Seton Hall Law School, attended on behalf of Commissioner Patrick Hobbs. Professor Bernard Bell, Rutgers Law School, attended on behalf of Commissioner Stuart Deutsch.

Also attending was Rebecca A. Moll, Esq., Sills Cummis Radin Tischman Epstein & Gross, PA, Newark.

Minutes

The Commission accepted the Minutes of November 8, 2001 as submitted.

Uniform Mediation Act

John Cannel reported that in proposing this project Commissioner Buchsbaum stressed the need for uniformity. The Uniform Act includes a very full privilege against disclosure of mediation communication. Chairman Burstein found in his work as a Master that a privilege can become subject to abuse, but that he saw the argument for uniformity and has no fundamental problem with the Uniform Act. Mr. Cannel called attention to Section 7(b)(3) pertaining to child abuse, which was changed slightly from the uniform provision to fit with New Jersey law.

Professor Bell was concerned that the Section 2(7) definition of "Proceeding" includes "a legislative hearing." Mr. Cannel stated that the mediator privilege is stronger than traditional privileges like lawyer/client and priest/penitent privilege, but not stronger than the newer privileges such as rape counselor, and marriage counselor.

John Burke said that no state has acted on the UMA. Mr. Cannel proposed putting a longer response date on the Tentative Report and sending it to the Evidence Committee for comment. Chairman Burstein directed him to indicate that the Commission has qualms about the breadth of the privilege, and then to send out the Report.

### Election Law

Mr. Burke said that statewide voter registration is central to election law reform. Following discussion, Chairman Burstein said that centralization is the direction to go; he prefers an independent body, neither ELEC which deals with finance, nor the Attorney General. The Commission directed staff to investigate the following areas:

- 1) Implementation of Florida's statewide registration system, and how other states handle their systems,
- 2) The division of mandates between statutes and regulations in Michigan,
- 3) Mechanical data information, including use of digitized signatures and optical scanning; check use of handwritten comparison, other forms of ID; what criteria should a system satisfy? And
- 4) H.R. Bill 3295; and how New Jersey fits into it.

Chairman Burstein favored keeping a role for county clerks. Regarding absentee ballots, Chairman Burstein said that there is a benefit of communality. The reasons which New Jersey now accepts for absentee balloting are for convenience; the abolition of reasons may not get opposition. Professor Bell noted that absentee ballots in New Jersey are all paper ballots.

Rebecca Moll, working with the attorney for Governor-Elect McGreevey's transition team, reported that Mr. McGreevey favors centralization of the election system.

### Abandoned Buildings

Mr. Burke noted that Alan Mallach emphasizes residential properties in his memorandum of October 18, 2001.

Section 5(b)(4) requires either demonstration that the rent roll of the building is sufficient to carry its cost, or a plan the court approves. Mr. Burke said that it should be part of the criteria for sending a property into receivership.

Commissioner Buchsbaum suggested adding a subsection 5(b)(5) to include a credible financing plan.

Chairman Burstein said to leave to factual circumstances and discretion of the court.

Commissioner Buchsbaum [Section 5(b)(2)??] asked what kind of "action" is meant. He suggested adding "may be handled by a summary action."

Professor Garland voiced his concerns regarding process and definitions:

- a person can put property on a list ex parte; there should be notice and an opportunity for the owner to be heard prior to the property's being listed,

- Sections 2 and 3 assume that conditions are as the complainant says; there should be an adversarial hearing,

- Section 1(d)(5) property should not be able to be taken just because the value is lower than that of comparable surrounding property,

- a single code violation should not suffice; more due process is needed,

- Section 1(d)(3) – determining whether a property is a "nuisance" is very fact sensitive; a person needs notice and an opportunity to be heard.

Commissioner Pfaltz referring to Section 1(e) definition of an "Interested person" said it may need to require notification of the mortgagee and others with an interest.

Commissioner Buchsbaum suggested tie in with areas which need rehabilitating. See Section 14 of the Redevelopment and Housing Law.

Chairman Burstein asked that the notice requirements of New Brunswick Savings Bank v. Markouski, 123 N.J. 402 (1991) be incorporated.

Professor Bell said that Mr. Mallach's concern is with multi-family dwelling units and questioned whether the Act should deal with single-family dwellings.

Commissioner Pfaltz noted that abandoned gas stations present problems.

Section 1(d) is problematic. Perhaps add the word "substantially."

Section 2. Professor Bell had concerns about a property's getting put on list; need to reconcile administrative and legal remedies.

Section 4., Remedy, raises a technical issue: "interested person" can file an action. Commissioner Buchsbaum suggested that perhaps only a municipality or a designated authority should be able to file an action. Local government can perform screening function.

Section 9. Professor Bell asked about the criteria a court uses to decide whether to return property to an owner. It was suggested that one criterion be added: whether an owner has previously been able to take property out of receivership but not keep it out.

#### Miscellaneous

Commissioner Pfaltz proposed a new project on mandatory revocation of drivers' licenses. He questioned whether current grounds are justifiable in all cases.

Mr. Cannel reported that the Tentative Report on Recordation had gone out.

Commissioner Vito Gagliardi, Jr. has been reappointed. Mr. Cannel will check on the other Commissioners' statuses.

Commissioners will check their calendars to see if the proposed Meeting schedule (third Thursday monthly) for 2002 is satisfactory.

The next Commission meeting is scheduled for January 17, 2001.