

**MINUTES OF COMMISSION MEETING**  
**January 15, 2009**

Present at the New Jersey Law Revision Commission meeting held at 153 Halsey Street, 7<sup>th</sup> Floor, Newark, New Jersey were Chairman Vito A. Gagliardi, Jr., Commissioner Andrew Bunn, and Commissioner Sylvia Pressler. Professor Bernard Bell of Rutgers University School of Law, Newark attended on behalf of Commissioner Stuart Deutsch.

**Minutes**

The Minutes of the meeting of December 18, 2008 were accepted with minor modifications. On page two, in the second full paragraph, there is a reference to Professor Bell recommending the inclusion of the words “shall insure” and the language should be corrected to indicate that it was Professor Garland who made that recommendation. Also on page two, in the very last paragraph in the Poor Law section, in the first sentence of the paragraph, the language regarding Staff drafting language that is clear should be replaced with language that says “Staff should draft something consistent with the Commission’s comments”. On page 3, in the Title 1 section, the spelling of Senator Codey’s name should be corrected. On page 3, in the section pertaining to the Uniform Trade Secrets, the word “released” should be inserted in the first sentence after the word “was” and before “as”. The Motion to accept the Minutes as amended was made by Commissioner Bunn and seconded by Professor Bell.

**Poor Law**

Commissioner Pressler told John Cannel that there were certain stylistic changes she recommended that she would provide to him via email. For example, Commissioner Pressler suggested that the word “couple” must be changed, since it was unclear to what that term referred. The term “marriage” must also be changed to reflect the fact that it includes civil unions in accordance with the New Jersey Constitution. Professor Bell also noted that he had recommended changes to the draft as well and would provide those to Mr. Cannel after the meeting. Professor Bell said that in Section 5(f)(7), where the language reads “in either case the parent or guardian shall have...”, it appears that the word “not” should appear in that sentence. Mr. Cannel said that he would go back to the existing law and check to make sure and then correct the draft.

Mr. Cannel advised that he would prepare a marked draft for next meeting and Chairman Gagliardi indicated that he would like the Commission to release this as a final report at the February meeting.

**Uniform Environmental Covenants Act**

Marna Brown made reference to the letter she had distributed to the Commissioners which had just been received on the morning of the meeting from a Washington, D.C. law firm, Terris, Pravlik & Millian, LLP. The firm, representing plaintiffs in federal litigation involving the remediation of chromium sites in Jersey City, wished to be heard regarding the UECA and asked if the issue could be

tabled until the February meeting, at which time the firm would make a presentation before the Commission.

Ms. Brown expressed her view that the Commission should hear from this law firm regarding their position since the communication from the firm was the only support for the UECA that had been provided to Staff thus far. Chairman Gagliardi indicated that the matter would be carried to February.

### **Proposed Landlord/Tenant Project**

After Marna Brown presented an overview of the project, the Commission agreed that the project was worthwhile and necessary. Chairman Gagliardi suggested that the Commission should go forward with this project but expressed concerns regarding the timing. He inquired about the status of the Title 39 project from Laura Tharney in order to determine whether the Commission might be bogged down with two rather large projects simultaneously. Ms. Tharney explained that the balance of the MVC comments had not yet been provided to her because the Staff attorneys reviewing the project on behalf of the MVC had to switch their attentions to another project in November. She explained that it was her understanding that they would resume work on the Title 39 project in January and would complete their review and provide the remainder of their comments after that time.

Ms. Tharney explained that once she had received all of the comments from MVC, she anticipated that it would require approximately one month of work to incorporate those comments and revise the draft as appropriate. The Commission instructed Ms. Brown to proceed with the landlord/tenant project.

### **Uniform Common Interest Owners Bill of Rights Act**

John Cannel explained that the Commission had twice before completed significant reports in the common interest ownership area, and then, most recently, had worked on a “bill of rights” project on its own. In response to Commissioner Pressler’s question about the status of those projects, Mr. Cannel explained that any such project generally runs into cross-fire between those who are on boards and those who are unit owners. He explained that Commission reports have been involved in the crossfires that have precluded necessary legislation in the last five years.

When NCCUSL asked if the Commission was looking at the newest draft, a Bill of Rights, Mr. Cannel explained the history of such projects in New Jersey. The Commission’s new law student intern preliminarily reviewed the project and it appeared from his review that the current New Jersey law in this area is stronger and more specific than the uniform law in a number of areas.

Mr. Cannel indicated that the current New Jersey law covers only condominiums and does not cover co-ops. He said that while there are not many co-ops in New Jersey, there are other forms of ownership that could and perhaps should be included, such as Planned Unit Developments.

Commissioner Bunn asked if the project was less likely to move through the Legislature because it is a Bill of Rights and sounds as if it is very ‘pro unit owner’. Mr. Cannel replied that the fact that it is

a uniform law may have some appeal that would counteract any fears about a possible “pro-owner” bias. He noted, however, that the Commission might make substantial changes from the version proposed by NCCUSL because, in its present form, the draft on some subjects is weaker than existing law and does not contain the protections of transfer of ownership and restrictions on evictions in the Commission’s last report on this subject. Mr. Cannel said that the last time the Commission’s work was before a legislative committee, he appeared in Trenton to speak about the Commission’s project and it was his understanding that a package in this area of the law was going to be put together. Since that time, however, he has heard nothing about any development of the law or any movement of the project. Chairman Gagliardi suggested that Commission action on the project should be deferred until the Commission has a sense of whether the project was likely to move through the Legislature in light of the Commission’s history in this area of the law.

### **Miscellaneous**

The Commission reviewed the list of proposed projects that had been prepared by Staff.

Mr. Cannel asked if the proposed meeting dates for 2009 looked acceptable to the Commission and said that, since they did, Staff would file the dates with the Legislature.

The meeting was adjourned. The next Commission meeting is scheduled for February 19, 2009.