**LANDLORD-TENANT COMMITTEE**

**Memorandum of Committee Minutes**

TO: All Landlord Tenant Committee Members

The Florida Bar – Real Property, Probate and Trust Law Section

FROM: Neil Shoter, Chair

RE: May 23, 2013 Meeting Minutes

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The Committee Chair, Neil Shoter, convened the meeting at 1:00 PM.

Those attending the meeting either in person or via teleconference are shown on Attachment 1.

**1. WELCOME AND INTRODUCTION:** Neil Shoter welcomed committee members and also welcomed new committee member Christine Burke. He advised the committee that the larger the committee becomes, the more interesting the meetings are. He was proud to say that the last count on the listserv is just short of 100. He thanked everyone who attends.

**2. APPROVAL OF PRIOR MINUTES:** The minutes for the committee meeting of April 10, 2013 were presented for approval and were approved without objection.

**3. CHAIR’S REPORT:** Mr. Shoter stated that this meeting is the last meeting of the bar year and the new bar year starts in July, and the July 26-27 time frame is when the Breakers meeting and the Section’s Legislative Update will be held. He indicated that this is an excellent seminar and encouraged everyone to attend because it is an excellent way to get up to speed on new laws. He stated that this meeting is the last of his three years as chair and stated that it was a great privilege and he is looking to spend more time working with the Section and attending committee meetings. He advised that Lloyd Granet will be the committee chair and that Lloyd has been a long time active member of the committee. Mr. Shoter stated that Rick Eckhard will be stepping into the vice chair’s role. He also advised the committee members to use the listserv. It is a great way to find out new information and we get good feedback. It’s a great resource and we are lucky to have it.

**4. CURRENT BUSINESS/LEGISLATIVE ACTION SUBCOMMITTEE:**

a. Legislative Action Report: Rick Eckhard reported that we were asked to look at four bills, which he previously sent to the committee. He indicated that House Bill 77 was the most pertinent to this committee and one which Neil Shoter described as an omnibus cleanup. They cleaned up grammatical misuse of shall and created a rebuttable presumption that the new owner has received the security deposit but only to the extent of one month. The legislation required notice from the landlord to the tenant regarding the location of deposit. No penalty was provided for breach. Art Menor inquired as to who was the bill’s proponent. Senator Stargill failed last year and brought it back this year. Rick Eckhard advised that we commented on about five to six changes which did not lead to bill changes. He indicated that we had good committee participation and he received comments from about 6 or 7 members. Regarding the other bills, he indicated that he sent all bills via the listserv on Monday and if you didn’t get them to please send him an email.

b. Residential Litigation: Lanie Simon was not on the call so no report.

c. Commercial Leasing: Mr. Shoter indicated that a subcommittee chair is needed for this spot.

d. Cases of Interest/Open Forum: Mr. Shoter opened the discussion of cases of interest that have come up in our practice. Art Menor discussed a statute passed in California intended to relieve landlords from abuses from ADA claims being made by third parties. He gave the following background: ADA has a procedure for private attorneys general where that establishes legal fees. A sort of cottage industry has arisen where groups go around to shopping centers and other properties and allege violations of ADA. Sophisticated landlords understand it is an attorney’s fees play so owners agree to make changes. After further review, the statute in California is relating to the California statute, not the federal statute, which it does not impact. Shutts handled this recently where a plaintiff brought a federal suit against a shopping center owner and they got the case dismissed on the basis that the plaintiff didn’t have standing to bring the case. The plaintiff had brought the case 2 years prior and the court took judicial notice that plaintiff was a “serial plaintiff” having filed hundreds of lawsuits and therefore the court dismissed the action.

e. Committee Secretary: Mr. Shoter advised the committee that this position available.

Mr. Granet spoke regarding next year. He inquired from the committee how can we do more and how can we make it better and increase participation. He stated that we need volunteers to chair the subcommittee on commercial leasing; a committee secretary and also for membership. Mr. Shoter stated that the membership subcommittee chair is someone who can help grow the committee. If you’re associated house counsel you get same privileges and can be a member of the committee and can also join the Section as affiliate. Mr. Granet also indicated that he is targeting programs for next year. Our seminars have been good and he would like to know what everyone is looking for. He asked for ideas and for participants for providing the seminars. He advised that e-Seminars are set to begin in February. Mr. Shoter stated that Actionline is a great platform for learning and writing and the Section encourages participation. He advised that Art has written a number of articles and Anthony Horky wrote in the last issue about Section 34.011, Florida Statutes. Mr. Granet indicated that he would like volunteers as opposed to asking.

Mr. Shoter thanked Brenda Ezell for her hard work as committee secretary over the last few years. He stated the technology is better and the listserv is easy to maintain. He also stated that the Section is upgrading the website. Art Menor suggested that since we do have such good listserv participation, we should preserve the threads and those that have meaty responses can be posted in the archives on the web. Mr. Shoter indicated that the future meeting schedule will be posted. He stated that July 25th is the most likely meeting date due to the Legislative Update. He stated that the Sarasota meeting is in December and February 6-7, 2014 we will be in Amelia Island. The last meeting of 2014 will be at Captiva Island. Mr. Shoter stated that he appreciates everyone’s participation in the meeting today.

**5. CLE PRESENTATION:** Eric Jacobs: Time of the Essence Clauses. Mr. Shoter indicated that Erick Jacobs had a court conflict so this presentation is postponed and will possibly happen in July.

**6. TECHNOLOGY ISSUES:** No discussion.

**Adjourned**: 2:07 PM