**THE FLORIDA BAR**

**REAL PROPERTY, PROBATE AND TRUST LAW SECTION**

**LANDLORD TENANT COMMITTEE MEETING**

**MINUTES OF THE MEETING**

**Thursday, July 25, 2013**

**The Breakers Resort**

**Palm Beach, Florida**

**CALL TO ORDER**

The Chair, Lloyd Granet, convened the meeting at 3:04 p.m.

MEETING AGENDA;

1. **WELCOME AND INTRODUCTIONS:** The new Committee Chair, Lloyd Granet introduced the new officers:

Lloyd Granet, Chair

Rick Eckhard, Vice Chair

Arlene Udick, Secretary

Lanie Simon, Residential/Litigation subcommittee chair

1. **APPROVAL OF PRIOR MINUTES:** The minutes for the committee meeting of May 23, 2013 were presented for approval and were approved without objection
2. **CHAIR’S REPORT:** Mr. Granet thanked outgoing Chair Neil Shoter and outgoing Secretary, Brenda Ezell for their hard work and leadership during their tenure.

Mr. Granet welcomed all new members.

Continuing Legal Education is the theme for all Committee meetings. The Chair requested that the members offer suggestions about who we want to hear and ideas for issues that we want to hear about. There will be a one hour CLE on leases and bankruptcy at the February 2014 meeting - the bankruptcy laws have changed recently; and a half day seminar on estoppel letters and municipal liens and taxes.

1. **CURRENT BUSINESS/LEGISLATAIVE ACTION SUBCOMMITTEE:** Vice Chair Rick Eckhart is seeking volunteers to work on this subcommittee.

HB 833 passed and was signed into law on July 1, 2013. HB 833 revised procedures for the discharge of duties by an assignee under an assignment for the benefit of creditors for the rejection of a non residential lease.

HB 77 – made a large number of changes to the Florida Residential Landlord & Tenant Act; provides that right to attorney fees may not be waived in lease agreement; revises procedures for termination of rental agreement by landlord; provides that landlord does not waive right to terminate rental agreement or to bring civil action for noncompliance by accepting partial rent; provides limited rebuttable presumption of receipt of security deposits, among other provisions.

The Act did not address post closing occupancy of a house by the seller. The only remedy to remove the seller is a law suit. Tenancies are created by a Purchase and Sale Agreement where the buyer pays a years’ rent or the buyer paid 30 days rent and 5% down. The only remedy for eviction is a law suit and not summary procedure under Chapter 83.

There was much discussion about keeping the lease separate from the Contract. The best practice is to keep the lease and purchase and sale agreement separate. When there is occupancy under a purchase and sale agreement the option for eviction is foreclosure.

1. **CLE PRESENTATION;**

Eric Jacobs spoke about Time is of the Essence in lease agreements and how various courts interpret that provision. Eric solicited comments from members about their experience with their use of Time is of the Essence clause.

1. **TECHNOLOGY/LIST SERV:**

The Chair reported that the List Serve has over 100 members. The list serve data base is open to all members. The members can use the data base to check strings on areas of law that may be of interest to the member. The Chair encouraged all members to use the list serve to make them more effective.

1. **CASE DISCUSSION/OPEN FORUM;**

There was discussion about the assignment of a lease and whether documentary stamps are due. If the assignment of the lease is at market value no documentary stamps are due. If there is an allocation of the lease rights, documentary stamps are due.

1. **FUTURE MEETINGS:**

November 22, 2013 – Ritz Carlton, Sarasota

February 7, 2014 – Ritz Carlton, Amelia Island, Florida

May 29, 2014 – south Seas Island Resort, Captiva, Florida

1. **ADJOURN:** there being no further business the meeting was adjourned at 3:55 p.m.