



Real Estate Institute

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Topics Presented on Friday, May 3: Day One

- Abandonment & Discontinued Roads (Ch. 1)
- Conservation Easements: Maine on the Cutting Edge (Ch. 5)
- Creative Title Clearing (Ch. 6)
- Cybersecurity: Raising the Bar (*ethics*) (Ch. 7)
- Drafting and Interpreting Easements (Ch. 8)
- Foreclosure: Complaint to Judgment, Plaintiff and Defendant Perspective (Ch. 11)
- Foreclosures: Searching Title for Compliance Prior to the Complaint (Ch. 12)
- Common Interest Communities and Community Association Documents (Ch. 13)
- Joint Tenancy: How to Create/How to Sever (Ch. 14)
- The Maine Municipal Subdivision Law (Ch. 15)
- New Probate Code Effects on Real Estate (Transfer on Death Deeds) (Ch. 17)
- Overburdening Easements (Ch. 18)
- Paper Streets (Ch. 20)
- Real Estate Planning: Succession, Titling, Zoning, MaineCare, and Other Issues (Ch. 22)
- Survey Matters (Ch. 24)

Topics Presented on Saturday, May 4: Day Two

- Bankruptcy and Real Estate Title Issues (Ch. 1)
- Ethical Issues in Closings, Including Your Own (*ethics*) (Ch. 4)
- Family Law/Divorce Matters Affecting Real Property (Ch. 5)
- Law Court and Legislative Update (Ch. 7)
- Maine Leases: Drafting Considerations (Ch. 8)
- Municipal Real Estate Tax Liens: Lien and Foreclosure Processes, Parties' Rights, Title Review and Tax Title (Ch. 9)
- On the Waterfront (Ch.10)
- Like-Kind Exchanges (IRC Section 1031) (Ch. 11)
- Powers of Attorney (Ch. 12)
- Solar Storm: The Coming Flare in Solor Power Development in Maine and What Real Estate Practitioners Need to Know to Avoid Getting Burned (Ch. 14)
- Unintended Escrow Agent (*ethics*) (Ch. 15)
- The Unwanted Tenant/Forcible Entry and Detainers (Ch. 16)
- An Update on Electronic Notarization (Ch. 17)
- Zoning: Fundamentals and Considerations for the Real Estate Law Practitioner (Ch. 19)

See reverse for course descriptions.

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DESCRIPTIONS FOR TOPICS PRESENTED ON FRIDAY, MAY 3: DAY ONE

Abandonment & Discontinued Roads

John A. Cunningham, Esq.

Conservation Easements: Maine on the Cutting Edge

R. Howard Lake, Esq.

Creative Title Clearing

This presentation will discuss ideas on how to resolve title issues, including the use of title insurance.

Donald A. Fowler Jr., Esq.

Forrest C. Peterson, Esq.

Cybersecurity: Raising the Bar

You hear about it in the news every week: Another company, government organization, or financial institution is hit by a cyberattack. It's never an easy recovery process; besides the bad PR and mistrust of customers, companies deal with compromise of sensitive company or personal information, monetary theft, and weeks' worth of downtime. These attacks can be extremely damaging to companies and consumers alike—and it's not just large corporations and enterprises that are targets. Research shows that almost 50% of cyberattacks are now targeted at small businesses, and 68% of small businesses report experiencing a cyberattack within the last 12 months. So, what do you need to know about cybersecurity threats, and how do you protect your business and your customers? Learn about cybersecurity threats to business today and how to minimize your risk. Learn why a strong cybersecurity posture requires multiple layers of protection and how to effectively employ each layer at your organization. Cybersecurity can seem complicated at first, but this presentation will simplify the conversation using straight talk—not tech talk. You will leave with a better overall awareness of cybersecurity and steps you can take to reduce vulnerabilities and protect your business. The better you understand cyber threats, the better you can prepare yourself and your organization.

Robert Simopoulos

Drafting and Interpreting Easements

An express easement should describe clearly what each party believes the other party intends regarding the easement's purpose, scope, location, duration and affected properties. In this session, we will discuss drafting unambiguous easements and interpreting express easements.

David J. Jones, Esq.

Foreclosure: Complaint to Judgment, Plaintiff and Defendant Perspective

Leonard F. Morley Jr., Esq.

Jonathan E. Selkowitz, Esq.

Foreclosures: Searching Title for Compliance Prior to the Complaint

This presentation will provide an overview of title examination process prior to foreclosure complaint, mortgage description defects, assignment of mortgage chain defects, title curative steps, and interested parties.

Shannon M. Merrill, Esq.

Common Interest Communities and Community Associations

Most Maine attorneys are familiar with the Declaration of "CC&Rs," recorded before new subdivision lots are sold, and with the Homeowner Association (the HOA) bylaws that frequently accompany them. However, the underlying legal principles of this arrangement are not clearly defined in statutes or in case law, and the frequent result is badly drafted documents that do not do what they are intended to do. The best current example of this is the inability of private restrictions to allow community control of Airbnb and other short-term rentals. This presentation is focused on those developments whose CC&Rs both limit the use of land and

which impose an obligation to pay for maintenance of common areas or services through an association of owners. This presentation provides a short history of restrictions running with the land and Maine case law about this (such as it is). It will also provide a description of the inadequacies of many existing documents and suggestions about how to deal with them, followed by a short primer on non-statutory community association law, as well as some templates for better documents.

Joseph G. Carleton, Jr., Esq.

Joint Tenancy: How to Create/How to Sever

Maine law of joint tenancy: The rules, cases, statutes, and newly revised Maine Title Standards and how to apply them to creating and severing joint tenancies in a variety of contexts. You are encouraged to bring your own examples to the session.

Samuel C.V.D. Kilbourn, Esq.

The Maine Municipal Subdivision Law

This presentation will discuss Maine municipal subdivision law and provide practice pointers to avoid common subdivision problems.

John M. Kirk III, Esq.

New Probate Code Effects on Real Estate (Transfer on Death Deeds)

The legislature's overhaul of the Maine Probate Code includes the adoption of the Uniform Real Property Transfer on Death Act (URPTDA). URPTDA provides for a new type of statutory deed, namely the "transfer on death deed" (TODD). TODDs facilitate revocable, non-testamentary transfers of real property. Topics of discussion will include appropriate uses TODDs, drafting TODDs, special considerations for the execution of TODDs, revocation of TODDs, the impact of TODDs on joint tenants and creditors, and conditions precedent to the efficacy of TODDs following the death of the grantor.

Reid Hayton-Hull, Esq.

Overburdening Easement

Christopher E. Pazar, Esq.

Paper Streets

John A. Cunningham, Esq.

Real Estate Planning: Succession, Titling, Zoning, MaineCare, and Other Issues

Real estate planning is truly the intersection of real estate and estate planning. This is a relatively new area of the law following the advent of limited liability companies about 20 years ago. It is an old, but underutilized, area of the law for looking beyond the immediate transaction and to reconsider how to title property, plan around zoning and MaineCare constraints, avoid income or estate tax obstacles, and take advantage of survey coordination and titling choices. Rather than our usual myopic transactions, we can create broader and longer-range real estate planning opportunities. Results can reap richer rewards for attorneys and clients and result in longer client relationships for all concerned.

Carl R. Griffin III, Esq.

Survey Matters

Do you have questions you would like to ask a professional land surveyor? Are there things that surveyors wish that attorneys understood? This session will cover a variety of topics, which may include: surveying standards of practice, surveyor licensing requirements, ALTA/NSPS land title surveys, Class D surveys, standard boundary surveys, how surveyors use GPS and when they can't, how far back do surveyors research, who should write deed descriptions, or when should you have a survey done.

John Schwanda, PLS

DESCRIPTIONS FOR TOPICS PRESENTED ON SATURDAY, MAY 4

Bankruptcy and Real Estate Title Issues

Designed for non-bankruptcy practitioners, this session is an introductory overview for real estate attorneys of what impact a past, present or potential bankruptcy petition filing of a seller, buyer, or lienholder has on a title. Attendees will learn a conceptual framework to analyze how to handle each of these situations, as well as how to approach others. Recent bankruptcy case law relating to titles as well as other sections of the bankruptcy code will be discussed, if time permits.

Peter L. Hatem, Esq.

Ethical Issues in Closings, Including Your Own Experience

A presentation of applicable Maine Rules of Professional Conduct, Ethics Opinions, and Cases followed by a discussion of hypothetical situations. You are encouraged to bring your own hypotheticals to the session.

Samuel C.V.D. Kilbourn, Esq.

Michelle Radie-Coffin, Esq.

Family Law/Divorce Matters Affecting Real Property

This presentation will discuss the intersection of family law, divorce law, and real property law, including the preparation of divorce judgments and abstracts to prevent future title issues.

John M. Kirk III, Esq.

Law Court and Legislative Update

The speakers will present a concise summary of some of the most important court decisions and statutory amendments in the past two years.

Glenn Israel, Esq.

James Monteleone, Esq.

Maine Leases: Drafting Considerations

Timothy S. Keiter, Esq.

Municipal Real Estate Tax Liens: Lien and Foreclosure Processes, Parties' Rights, Title Review and Tax Title

Sarah L. Reinhart, Esq.

On the Waterfront

This presentation will provide an overview of common types of waterfront properties in Maine, the boundaries of waterfront properties and the legal rights of non-owners in and to the use of said waterfront properties. Whether it be the land abutting an ocean, great pond, lake or river, it's important to understand these non-owner rights and how they may affect the fee owner's use of the land.

Carrie B. Cote, Esq.

Like-Kind Exchanges (IRC Section 1031)

Learn about like kind exchanges of real estate, the role of accounting professionals, attorneys, and qualified intermediaries, and common issues that arise in like kind exchanges. Mindful of the general disdain for math, the class will only briefly touch on basis calculation, boot, and depreciation recapture.

Derek A. Jones, Esq.

Powers of Attorney

This presentation will provide an overview of the creation, use, and revocation of various forms of powers of attorney including the common law power of attorney and the Maine durable power of attorney as affected by the changes to the statute.

Tiffany M. Dembowski, Esq.

William R. Walsh, Jr., Esq.

Solar Storm: The Coming Flare in Solar Power Development in Maine and What Real Estate Practitioners Need to Know to Avoid Getting Burned

After years of policies discouraging photovoltaic (PV) development in Maine, a new dawn of more favorable regulations and incentives are expected to energize the industry and spur PV installations throughout the state. A critical component of any PV system is the site it's built on and zoning, leasing, title, access and other common real estate issues often arise in planning a successful project. This presentation will include a brief introduction to the history of PV development in Maine, summarize recent and anticipated changes to the PV regulatory environment, and provide an overview of legal issues encountered with PV projects.

Stephen F. Hinchman, Esq.

Nathaniel R. Huckel-Bauer, Esq.

Unintended Escrow Agent

Ryan P. Dumais, Esq.

The Unwanted Tenant/Forcible Entry and Detainers

This presentation will provide a brief overview of the law as it pertains to landlords and tenants. Among the topics covered will be a landlord's legal rights and responsibilities, a tenant's legal rights and responsibilities, forcible entry and detainer actions, security deposits, and other legal issues commonly faced by landlord-tenant counsel.

Matthew Mastrogiacomo, Esq.

An Update on Electronic Notarization

Many states across the country are enacting new laws on electronic notarization, including some that allow for remote online notarization. Even though Maine does not currently allow Maine notaries to perform electronic notarization, the laws of other states may impact real estate transactions in Maine. This presentation will explain what electronic notarization is and how it works. It will also provide an update on the status of electronic notarization laws and remote online notarization laws nationwide. In addition, it will review the status or legislation relating to electronic notarization in Maine.

Robin D. Watts, Esq.

Zoning: Fundamentals and Considerations for the Real Estate Law Practitioner

This presentation will provide an overview of the classic zoning topics and issues that a real estate attorney in Maine may likely encounter, including general zoning principles, zoning ordinance interpretation, variances, contract zoning, land-use opinions, shoreland zoning, LUPC, and non-conforming uses. The presentation will also highlight emerging trends, hot-button zoning issues in Maine, and evolving areas of zoning law.

Edmond J. Bearor, Esq.

Stephen W. Wagner, Esq.