

**The Connecticut Bar Association Standing Committee on  
Residential Real Property Certification  
Program Regulations**

**Section 1: Mission**

1.1 The purpose of this certification program is to identify to the public and the bar those attorneys who have demonstrated superior knowledge, skill, competence, integrity, ethics, and professionalism in the area of residential real property. The goal of the program is to improve the public's access to appropriate legal services and to enhance residential real property law practice in Connecticut.

1.2 The practice of Connecticut residential real estate law is unique to the state of Connecticut because of the history, geographic features of the state, and the evolution of its constitutional, statutory, and case law. Accordingly, these Program Regulations ("Regulations") require that attorneys seeking certification demonstrate a degree of practical knowledge and experience in Connecticut residential real estate law and transactions.

1.3 No attorney shall be required to obtain board certification before practicing in any area of law. Any attorney, alone or in association with any other attorney, shall have the right to practice in any area of law, even though not board-certified in that area.

**Section 2: Standing Committee on Residential Real Property Certification-Appointment and Authority**

2.1 There shall be established a Standing Committee on Residential Real Property Certification ("Standing Committee") which shall consist of a maximum of eight members. Standing Committee members are required to be members of the Connecticut Bar Association. The members shall elect a chair. The members shall be appointed or re-appointed by the Chair of the Real Property Section of the Connecticut Bar Association with approval by the President of the CBA. All attorneys appointed to the Standing Committee shall have a substantial involvement in real property law. Of the members first appointed, four shall serve for two years and four shall serve for three years. Thereafter, all members shall serve two-year terms. Vacancies shall be filled for the unexpired term only.

2.2 The Chair of the Standing Committee may call a meeting at any time. Notice of the meeting shall be given to all members at least one week in advance of the meeting. A member may waive notice of the meeting by letter or e-mail addressed to the Chair. Four members of the Standing Committee shall constitute a quorum at any meeting. Members of the Standing Committee shall serve without compensation.

2.3 The Standing Committee shall formulate and revise rules governing the certification program by a majority vote of the members in attendance at a regular meeting duly called. All rules and any amendments thereto shall be submitted to the Legal Specialization Screening Committee for approval at least 60 days prior to the effective date of the revisions (with prior approval from CBA House of Delegates).

- 2.4 The Standing Committee shall have authority to:
- a. develop and interpret these regulations (subject to approval by the CBA House of Delegates);
  - b. recommend to the Legal Specialization Screening Committee amendments to these Regulations (subject to approval by the CBA House of Delegates);
  - c. consider those applications for certification or re-certification in accordance with the Regulations and approve such applications when it deems the attorney has met the requirements as outlined in the Regulations;
  - d. suspend or revoke an attorney's certification in accordance with the provisions of the Regulations;
  - e. deny certification if a attorney has failed to meet the program requirements;
  - f. promulgate an annual budget in consultation with the staff advisor appointed pursuant to Section 12 of the Regulations to implement and maintain the certification program;
  - g. determine whether a continuing legal education activity qualifies as being in the area of residential real property for the purposes of satisfying the requirements of Section 4.6 of the Regulations.

2.5 The Standing Committee shall not discriminate against any attorney seeking certification or re-certification on the basis of race, religion, gender, sexual orientation, disability, or age. This paragraph does not prohibit the Standing Committee from imposing reasonable experience, select educational requirements, and stated other requirements on attorneys seeking certification or re-certification.

### **Section 3: Examining Committee-Appointment and Authority**

3.1 There shall be established an Examining Committee of the Standing Committee consisting of six members appointed by the Chair of the Standing Committee (subject to the approval of the President of the CBA). The Examining Committee shall have a chair, elected by the members of the committee. The Examining Committee is responsible for conducting an independent evaluation of the qualifications of applicants for certification and re-certification and recommending any action to be taken by the Standing Committee on applications for certification and re-certification.

3.2 Members of the Examining Committee shall include:

- a. at least one member of the Standing Committee;
- b. an experienced practitioner with substantial involvement in the area of residential real property;
- c. an individual experienced in the administration and operation of a program that certifies attorneys as specialists; and
- d. a current faculty member of an ABA-accredited law school knowledgeable in the area of residential real property.

3.3 Of the members first appointed, four shall serve for two years and the remaining members shall serve terms of three years. Thereafter members shall serve for a term of two years. The Standing Committee Chair shall fill vacancies for unexpired terms only.

3.4 Meetings of the Examining Committee may be called at any time upon notice given by the chair. Notice of the meeting shall be given to all members at least one week prior to the meeting. A member may waive notice of the meeting by letter or email addressed to the chair. Fifty percent of the members shall constitute a quorum at any meeting duly called. Members of the Examining Committee shall serve without compensation.

3.5 The Examining Committee shall retain a paid consultant experienced in educational tests and measurements to assist the Examining Committee in matters relating to the written examination.

3.6 The Examining Committee shall develop an applicant's bulletin, which will describe the examination content, administration, and scoring in sufficient detail to provide applicants with information to be used to prepare for the examination.

3.7 The Examining committee shall develop a Test Administration Manual that outlines policy for applicant admission to the test site, entry, and exit during the examination; dismissal of examinees at the conclusion of the exam; procedures to follow in the event of irregularities during the exam; and pre-and post-examination security.

3.8 Upon the recommendation of the Examining Committee, the Standing Committee shall grant or deny certification or re-certification to an applicant, except in the event the Examining Committee deems the applicant is not qualified to sit for the examination. In any such case where the Examining Committee has found the applicant not qualified to sit for the examination, the Examining Committee shall notify the applicant of the adverse determination and the appeal procedure in accordance with section 11 of these Regulations.

#### **Section 4: Minimum Standards for Certification**

##### **4.1 Substantial Involvement**

- a. The applicant shall demonstrate substantial involvement in the practice of residential real property law throughout the five-year period immediately preceding application for certification or re-certification; provided however, that an interruption in continuous practice of up to one year for a sabbatical or leave of absence shall be permitted so long as the applicant has otherwise demonstrated such substantial involvement in the continuous practice of residential real property law for at least five years exclusive of the interruption.
- b. For purposes of this section, substantial involvement means the engagement by the applicant in the provision of legal services on a full-time 40 hour week basis in the course of which the applicant has annually devoted at least 25 percent of his or her time to matters for which the applicant has been primarily responsible in which issues of residential real property were significant factors. For part-time practice, the equivalent annual hours are required. Such experience shall include work in at least six of the following areas, and must include work in areas (a) and (b):
  - a. real estate transactions related to the acquisition, ownership, participation, leasing, financing, use, development, management, transfer, and or disposition of residential real estate, including drafting of residential real estate related documentation;
  - b. residential real estate title examinations, title opinions, and or title insurance;

- c. residential real estate leases;
- d. easements, servitudes, and or covenants;
- e. zoning or other land use controls;
- f. residential real estate financing;
- g. residential real estate securities;
- h. foreclosure and or forfeiture proceedings;
- i. real estate-related controversies either in court or in arbitration and including, but not limited to, quiet title, slander of title, ownership dispute;
- j. eminent domain and condemnation;
- k. condominiums, cooperatives, and or planned unit developments;
- l. subdivisions;
- m. landlord/tenant;
- n. homeowner associations;
- o. real estate taxation;
- p. water law;
- q. mineral rights;
- r. historic preservation;
- s. boundaries including, but not limited to, encroachments, party walls, fences; and
- t. agency and fiduciary relationships related to the other areas listed herein.

#### 4.2 Good Standing

The applicant seeking certification or re-certification shall have been engaged in the practice of law in Connecticut for at least five years preceding application for certification or re-certification. The applicant shall be a member in good standing of each jurisdiction in which the applicant is admitted. Confirmation of the same must accompany the application. The Standing Committee does not require that an applicant be a member of the Connecticut Bar Association, however, member and non-member fees will apply. For purposes of this section “engaged in the practice of law” shall mean substantive legal work done primarily for the purposes of rendering legal advice or representation. Employment by the government or a corporation or other business shall constitute the practice of law if (1) the work performed was legal in nature and was performed primarily for the purpose of rendering legal advice to, or representation of, such governmental agency, corporation, or other business; and (2) the applicant was required as a condition of such employment to be admitted to the bar of any state.

#### 4.3 Professional Ethics and Disciplinary Review

- a. An applicant for certification or re-certification shall demonstrate adherence to a high standard of professional responsibility and ethical conduct. The applicant shall verify by affidavit the following information for each jurisdiction in which the applicant is admitted: (1) any grievances filed against the applicant or disciplinary action taken against the applicant as the result of any such grievance or for any other reason, including any sanction or conditions imposed pursuant to Section 2-37 of the Connecticut Rules for the Superior Court; and (2) any malpractice actions brought against the applicant alleging malpractice on the part of the applicant. The Standing Committee shall consider the seriousness of the underlying facts of the grievance or malpractice action and will consider the passage of time since the grievance or malpractice action was filed or such discipline was imposed, as well as the applicant’s experience since that time. The information contained in the affidavit shall be stated with sufficient particularity to

enable the Standing Committee to conduct its investigation. Failure to disclose any information required by this section shall be a material misrepresentation and may be cause for denial of an application, suspension, or revocation of certification, or any other appropriate action.

- b. Any applicant shall request the Statewide Grievance Committee or similar disciplinary body in other jurisdictions to provide the Standing Committee with a complete disciplinary history of the applicant including those grievances where there has been a finding of no probable cause.
- c. The Standing Committee may deny certification or re-certification, revoke certification, or take other appropriate action on a finding of a grievance committee, disciplinary authority, or court that an applicant or certified attorney has been guilty of professional misconduct or upon notice of the pendency of such proceedings. However, the Standing Committee shall consider the seriousness of the underlying fact of the grievance and will consider the passage of time since such discipline and the applicant's experience since that time. Failure to disclose any such information required by this section shall be a material misrepresentation and may be cause for rejection, revocation, or other appropriate action.
- d. If a grievance, malpractice action, or discipline is imposed against any certified attorney, the attorney shall notify the Standing Committee within 30 days of the happening of any such event.

#### 4.4 Peer Review

- a. Statement of References—Applicants for certification or re-certification shall provide the Standing Committee (on forms to be provided by Standing Committee) with favorable references from five attorneys or judges. A majority of whom have devoted at least 25 percent of their practice to the practice of residential real estate law and are knowledgeable about the applicant's practice and competence in the area of residential real property, as well as the applicant's character, ethics, and reputation for professionalism. No reference may be from an attorney who: (1) is related to the applicant; or (2) is or has been engaged in legal practice with the applicant at any time during the three-year period preceding the filing of the application for certification or re-certification. After the first board-certified attorneys are appointed, one reference must be from a Board Certified Residential Real Estate Specialist. The Standing Committee shall send out all reference forms. In addition, the Standing Committee may seek and consider reference forms from persons of the Standing Committee's own choosing.
- b. Qualifications of References—All references shall be from Judges of the Connecticut Supreme, Appellate, and/or Superior Courts or from attorneys who are licensed to practice law in Connecticut and are currently in good standing.
- c. Evaluation of References—In evaluating applications, the Standing Committee shall consider the knowledge, experience, and reputation for ethical behavior in the field of

residential real property law of the references and the nature of the dealings between the references and the applicant in evaluating applications.

- e. Confidentiality-All materials and information received or used by the Standing Committee in connection with the certification or re-certification process, including, but not limited to, the application form and statements of reference, shall be confidential and shall not be subject to disclosure to any person, including the applicant. The applicant shall agree to this by the waiver signed on the application form.

#### 4.5 Insurance

An applicant for certification or re-certification shall have and maintain an attorney's professional liability insurance policy issued by a licensed liability insurance company authorized to carry such risks in the state of Connecticut with minimum limits of \$1,000,000 per claim. Confirmation by way of a properly executed certificate of insurance of the same shall accompany the application. The certificate shall name the Connecticut Bar Association as certificate holder. Said insurance must be maintained throughout the period of certification or re-certification. The Standing Committee, in its discretion, may waive the requirements of this section if they determine there is suitable alternative coverage or demonstration of financial responsibility for the protection of the applicant's clients. Applicants who are not engaged in the private practice of law but are employed by municipal, state, or federal governments; and applicants employed as staff or house counsel must demonstrate by some reliable evidence that they have adequate financial protection for their professional acts, through their employers or otherwise.

#### 4.6 Continuing Legal Education

- a. Each initial applicant shall demonstrate that during the three-year period preceding the filing of the application, the applicant has accumulated a minimum of 36 hours of continuing legal education in the area of residential real property. Four ethics credits (which may or may not be designated as ethics credits that are part of a course on residential real property) are required.
- b. This requirement may be met by attendance at continuing legal education programs approved by either the Continuing Legal Education Committee of the CBA or by the Standing Committee, by participating as a panelist or speaker at any such program, listening to or reviewing tapes, CD-ROMS, or any other recordings of such programs and writing published books or articles in the area of residential real property. Credit shall be accrued as follows:
  - 1. Applicants seeking credit for self-study must submit an affidavit attesting to the completion of the course of study, including review and study of the accompanying course material. Applicants shall include no more than 5 credits per calendar year by self-study.
  - 2. Applicants seeking credit for participating as a panelist or speaker at an activity approved by either the Continuing Legal Education Committee of the CBA or by the Standing Committee may receive one hour of credit for each two hours of preparation, and one hour of credit for one hour of presentation. The maximum number of hours which may be assigned for preparation of a single seminar is six hours.

3. The applicant has the burden of establishing entitlement to credit for a particular activity, both initially and upon appeal. Applicants shall provide such evidence as reasonably required to verify attendance at continuing legal education programs.
  4. The Standing Committee does not require an applicant seeking certification or re-certification to complete educational programs offered by any specific organization.
- c. Unless the activity is approved by the Continuing Legal Education committee of the CBA, or the Standing Committee, credit will not normally be given:
1. for speeches given at luncheons or banquets;
  2. for presentations to clients;
  3. for activities directed primarily to persons preparing for admission to practice law, but this provision shall not apply to presentations to persons seeking certification or re-certification;
  4. when the activity involves correspondence work or other informal self-study.

#### 4.7 Examination

- a. There shall be an evaluation of the applicant's knowledge of the substantive and procedural law in the area of residential real property law as practiced in Connecticut. Certification applicants must pass a written exam that is practical, objective, and designed to demonstrate special knowledge, skills, and proficiency in residential real property law to justify the representation of special competence to the legal profession and to the public.
- b. The examination shall be prepared under the direction of the Examining Committee and shall include all aspects of the practice of residential real property law. The exam shall also include issues devoted to professional responsibility and ethics as it relates to the practice of residential real property law. The examination shall contain written essay questions and multiple-choice questions.
- c. The Examining Committee shall administer and grade the examination uniformly. Scoring of the examination shall be set forth in sufficient detail in an applicant's bulletin. A passing score on the examination shall be established in a manner generally accepted as being fair.
- d. The Examining Committee shall insure that each written examination:
  1. is reliable and valid. Reliability is the consistency or replicability of test results. Validity requires that the content and emphasis of the examination proportionately reflect the knowledge and skills needed for an enhanced level of skill and expertise in residential real property law;
  2. is periodically reviewed to ensure relevance to knowledge and skills needed in residential real property as the law and practice methods develop over time; and
  3. is the subject of appropriate measures to protect the security of all examinations.
- e. The Examining committee shall implement appropriate post-examination statistical analysis and necessary research that shall include a question analysis to determine how effectively each question functions and a test analysis to determine how effectively the

test as a whole functions. The Examining Committee shall report its findings to the Standing Committee.

- f. The Examining Committee shall hold full-day examinations on no more frequently than annually for the certification of applicants as residential real property specialists. The examination shall be held at such place or places within the state of Connecticut as the Standing Committee may designate.
  - g. Subcommittee on Non-Standard Testing
    1. There shall be a subcommittee on non-standard testing for each examination, which shall have the power to act for the Examining Committee, to be appointed by the Chair of the Examining Committee, which the subcommittee shall have the duty, power, and authority to consider and act upon all petitions for non-standard testing and to determine the terms and conditions upon which non-standard testing will be provided to applicants in compliance with The Americans With Disabilities Act.
    2. Petitions for non-standard testing shall be in writing on a form prescribed by the subcommittee and shall be filed, together with such attachments as the subcommittee may require, with the staff advisor, on or before the filing deadline for applications for certification or re-certification.
    3. The subcommittee may, in its discretion, hold a hearing on any petition for non-standard testing. The subcommittee shall notify the applicant of its decision in writing and include a copy of the appeal procedures as outlined in Section 11 if a petition for non-standard testing is denied.
- 4.8 In all cases in which documentation is required from an applicant for an initial application and/or re-certification, an original and/or certified copy will be required.
- 4.9 Failure of Applicant to Attend Examination
- a. It is the applicant's sole responsibility to make all necessary travel and other related plans in due course to arrive at the examination site at the prescribed date and time. Once the examination has commenced, there will be no admittance of late-arriving applicants.
  - b. Should unforeseen circumstances occur that prevent an applicant from attending the examination, the applicant shall immediately contact the current chairperson of the Examining Committee at the Connecticut Bar Association and provide the reason(s) for the applicant's inability to sit for the examination. Within 48 hours of the original examination date the applicant shall deliver to the chairperson, or designated alternate at the Connecticut Bar Association, an "Affidavit of No-Contact" on the form appended to these Regulations. Failure to provide the affidavit within the prescribed time shall prohibit the applicant from taking the examination.
  - c. Should the applicant be unable to sit for the examination due to injury or illness, and should the applicant wish to re-schedule the examination, the applicant shall be required, no later than five business days after the date of the original examination, to submit to the Examining Committee a "Physicians Statement of Medical Necessity" confirming the nature and extent of the applicant's impairment caused by injury or illness using the form appended to these Regulations.



- d. At the sole discretion of the Examining Committee, the applicant may be allowed to sit for the examination at a time and place chosen by the Chairperson of the Examining Committee. A re-testing fee of \$125.00 shall be paid by the applicant. Should the applicant request a re-examination date within 30 days of the original date, there shall be no additional test fee required.

### **Section 5: Grounds for Denial of Application**

Grounds for denying an application for certification or re-certification include, but are not limited to the following (pursuant to these Regulations):

- a. applicant's failure to meet the substantial involvement requirement;
- b. applicant's failure to be engaged in the practice of law for 5 years
- c. applicant is not a member in good standing in each court to which he or she is admitted;
- d. applicant's failure to maintain an attorney's professional liability policy;
- e. information received through the references received;
- f. applicant's failure to meet the continuing legal education requirements;
- g. applicant's failure to pass the written examination;
- h. applicant's disciplinary history or other information received; or
- i. applicant's failure to furnish requested information or the misrepresentation of any material facts requested by the Standing Committee or Examining Committee.

### **Section 6: Requests for Additional Information**

The Examining Committee may request additional information from the applicant and or ask to meet personally with the applicant should the Examining Committee feel it necessary in order to make its recommendation. Failure to respond to a request for information may be taken into account by the Examining Committee when making its final decision.

### **Section 7: Period of Certification or Re-certification**

Certification or re-certification shall be granted for five years.

### **Section 8: Standards for Re-certification**

8.1 To retain certification an attorney shall apply for re-certification prior to the end of the fifth year of his or her initial certification and every five years thereafter.

8.2 An attorney shall be granted re-certification upon a showing of continued compliance with the original requirements for certification including substantial involvement, peer review, continuing legal education courses, good standing, insurance, and character, ethics, and reputation for professionalism. Applicants for re-certification shall not be required to take an additional examination to become re-certified.

8.3 An attorney seeking re-certification shall have earned no less than 60 hours of continuing legal education credit in the area of residential real property (in accordance with specific requirements as provided in Section 4.6 of the Regulations) during the certification period, with not more than 20 hours in any calendar year. At least six of the 60 hours shall have been earned in the area of legal ethics or professional responsibility.

## **Section 9: Annual Requirements**

Each certified attorney shall be sent an annual reporting form requesting:

- a. verification of continued substantial involvement;
- b. verification of continued good standing;
- c. disclosure of any disciplinary actions or grievances filed against the attorney whether or not there has been a finding of probable cause;
- d. disclosure of any malpractice claims;
- e. verification of continuing legal education courses taken during the past year; and
- f. payment of an annual fee of \$150.

## **Section 10: Suspension of Certification**

10.1 Any certified attorney shall immediately report to the Standing Committee: (a) his or her resignation, disbarment, or suspension from the practice of law in any jurisdiction to which he or she is admitted; (b) any cancellation or non-renewal of his or her legal malpractice policy which policy is not immediately replaced without lapse of coverage; (c) any conviction of a crime involving moral turpitude; (d) any entry of a judgment involving legal malpractice against the attorney; (e) any presentment by the grievance committee of any jurisdiction to which he or she is admitted; or (f) any imposition of sanctions or conditions imposed against the attorney pursuant to Section 2-37 of the Connecticut Rules for the Superior Court.

10.2 Upon the happening of any event listed in subsection (a), (b) or (c) of Section 10.1 of these Regulations, the attorney's certification shall be immediately suspended. Any such suspension shall be subject to the attorney's right of appeal pursuant to Section 11 of these Regulations.

10.3 The Standing Committee may, after investigation, suspend the certification of any attorney who has had:

- a. judgment involving legal malpractice entered against him;
- b. presentment proceedings filed against him by the grievance committee in any jurisdiction in which the attorney is admitted; or
- c. sanctions or conditions imposed against him pursuant to section 2-37 of the Connecticut Rules for the Superior Court. Any such suspension shall be subject to the attorney's right to appeal pursuant to section 11 of these Rules.

## **Section 11: Appeals**

11.1 An attorney whose application for certification or re-certification has been denied either for deficiency of the application or failure to fulfill the requirements for certification, including failure of the written examination, or (2) whose certification as a specialist has been suspended, may appeal any such decision in accordance with the provisions of this section.

11.2 Any notice of a decision to deny an application for certification or re-certification or to suspend the certification of a residential real estate specialist shall be sent by certified mail. An attorney wishing to appeal any such notice of the decision shall file a petition for appeal to the Standing Committee within 30 days of receipt of such decision. The petition shall be filed with the staff advisor at the CBA Law Center in New Britain, CT. The petition may be informal, but shall be in writing and must adequately identify:

- a. the determination for which reconsideration or review is requested;
- b. the date on which notice thereof was received;
- c. the reasons for which the petitioner believes the determination should be altered;
- d. the relief requested; and
- e. whether a hearing before the Standing Committee is requested.

11.3 If the petition alleges that an error or errors have been made in grading of his or her examination, the petition shall also set out in detail the area which, in the opinion of the applicant, has been incorrectly graded. Supporting information shall be filed with the petition to substantiate the applicant's claim.

11.4 If the petition alleges that an error or errors have been made in grading of the examination, the applicant may request that all information concerning the petition for appeal shall be submitted to the Standing Committee in blind form. In any such case, the staff advisor shall delete any identifying information on the examination, petition for appeal, and any other related documents.

11.5 If the petitioner does not request a hearing, the Standing Committee shall consider the petition for appeal within 45 days of receiving such petition. The Examining Committee may file a response to a petition for appeal of the denial of an application for certification or re-certification. At least five members of the Standing Committee shall be present to consider any such petition. The Standing Committee shall consider the petition and any response filed by the Examining Committee and render a decision confirming, reversing, or modifying the earlier decision by a majority vote of the members in attendance. If the petition for appeal concerns the grading of the applicant's application, the Standing Committee shall render a decision that the grade on the examination remain the same or be changed. Any such decision shall be made by a majority vote of those in attendance. The Standing Committee shall send a copy of the decision to the petitioner by certified mail.

11.6 If the petitioner requests a hearing, the Standing Committee shall hold a hearing within 45 days of receipt of the petition for appeal. The Standing Committee shall send notice of the hearing to the petitioner by certified mail. Any hearing by the Standing Committee shall be conducted by not less than five members of the committee. If the petitioner fails to attend or fails to request and obtain an alternate hearing date, the Standing Committee shall act on the petition without the presence of the petitioner. Except for good cause shown, which shall be strictly construed, only one request for an alternate hearing date shall be granted.

11.7 Within 90 days after the conclusion of the hearing, the Standing Committee shall render a decision, confirming, reversing, or modifying the earlier decision by a majority vote of the members in attendance. The Standing Committee shall send a copy of the decision to the petitioner by certified mail.

#### 11.8 Hearing Process

- a. The Standing Committee may, but is not required to, appoint an examiner who may be a member of the Standing Committee to investigate, gather, prepare, and present evidence and to aid in conducting hearings.
- b. At the hearing, the petitioner and the examiner may present sworn testimony and documentary evidence and shall have the right to cross-examine adverse witnesses.

- c. The Standing Committee will not be bound by a strict application of the rules of evidence, other than those related to privileges, in considering information that it deems reliable and relevant. The petitioner shall bear the burden of reasonable proof.
- d. The hearing shall be recorded by means of a tape recording, which shall be kept as an official record of the hearing. Transcripts shall be made available to the petitioner at his or her expense.

11.9 Appeal to the Real Property Section Executive Committee

- a. Within 30 days of receiving notice that a petition for appeal has been denied under Section 11.7, an attorney may appeal such adverse decision to a panel of the Real Property Section Executive Committee. The attorney shall file any such appeal with the staff advisor at the CBA Law Center in New Britain, CT. The chair of the Real Property Section of the CBA shall appoint a panel of five members of the Real Property Section Executive Committee, none of which shall be a member of the Standing Committee, to hear and decide the appeal.
- b. Within 45 days of receiving the notice of appeal under subdivision 1 of this subsection, the staff advisor shall prepare and certify to the panel a record of the Standing Committee hearing or if no hearing was held a record of the proceedings below. The record shall consist of all evidence offered at the hearing or if no hearing was requested all evidence submitted pursuant to Section 11.8. The examiner, or if there is no examiner a member of the Standing Committee designated by the chair, shall file an answer on behalf of the Standing Committee.
- c. Parties may file written briefs and the panel may hear oral arguments. The burden of reasonable proof is on the appellant. The panel shall consider only the record on appeal, briefs, and oral argument.
- d. Within 90 days after the panel concludes its deliberations, the panel shall render a decision confirming, reversing, or modifying the decision of the Standing Committee by a majority vote of the panel. The decision of the panel shall be final.

11.10 The petitioner or appellant may exercise the right to excuse a board member or panel member because of a conflict of interest.

11.11 Examination Pending Appeal-Any attorney who has filed a petition for appeal under this section and such petition is not acted upon prior to the date fixed for the written examination may elect to take the written examination pending the appeal. The attorney shall be required to pay the fee for such written examination and shall be notified that he is paying such fee at his own risk because of the pending appeal, since the fee is non-refundable. If the petition for appeal is finally denied, the attorney shall not receive any credit for having taken the examination if he reapplies at a later date.

## **Section 12: Responsibilities of the Staff Advisor**

12.1 The Connecticut Bar Association shall provide a staff advisor appointed by the Executive Director of the Connecticut of Bar Association to assist the Standing and Examining Committees.

12.2 Duties of the staff advisor include, but are not limited to:

- a. acting as coordinator of all aspects of the certification process for Standing Committee and the Examining Committee;

- b. being available to the Standing Committee and Examining Committee to discuss the certification process;
- c. assembling and distributing all materials required by the Standing Committee or Examining Committee to conduct its business in accordance with these Regulations;
- d. coordinating and attending meetings of the Standing Committee or Examining Committee;
- e. rendering advisory services and supplying appropriate material to any individual requesting an application or information regarding the certification of attorneys as residential real property specialists;
- f. conducting a review of the applicant's materials for application as described in Section 15 of the Regulations;
- g. collecting and properly accounting for all fees collected which are from the applicants; and
- h. disbursing in consultation with the Standing Committee Chair all authorized expenses.

### **Section 13: Communications**

In order to assure fairness and consistency, all communications between the applicant and any member of the Standing Committee or the Examining Committee must be conducted through the respective Chair or the staff advisor.

### **Section 14: Notice of Intent to Apply for Certification or Re-certification and Contents of the Application Packet.**

14.1 Prior to making a formal application for certification or re-certification, an applicant is required to file with the Standing Committee through the staff advisor a Notice of Intent to Apply form and in addition pay a nonrefundable pre-application fee in the amount of \$50.00. The Notice of Intent to Apply serves the purpose of providing basic information about the applicant in advance to expedite processing of the formal application when it is submitted and to defray the costs of inquiries regarding the certification process. Upon receipt of the Notice and Fee, the applicant will be sent an official application packet containing the forms and instructions to be used in filing the application. In addition the applicant will be assigned a control number.

14.2 The application packet includes, but is not limited to the following:

- a. Applicant's Bulletin form
- b. Acknowledgment Letter form
- c. Instruction Sheet form
- d. Application form
- e. Specimen of Handwriting form
- f. Amendment to Applicant form
- g. Additional Response Page form
- h. Petition for Non-Standard Testing form

14.3 If the applicant files a formal application, the pre-application fee will be applied to the application fee.

### **Section 15: Application for Certification or Re-certification**

15.1 Subject to the Notice of Intent to File requirement described in Section 14, an applicant can file a formal application for certification or re-certification with the Standing Committee on forms provided

by the Standing Committee together with payment of the basic application fee to the Standing Committee.

- a. Upon receipt of a formal application from the applicant, the staff advisor shall review all materials submitted by the applicant for completeness and conformance with the requirements of the Regulations.
- b. If omissions are noted or clarification of responses is needed, the staff advisor shall contact the applicant and request additional information.
- c. The staff advisor shall notify the applicant in writing once the materials are deemed complete.

15.2 Applications that are not accompanied by all of the supporting documentation or the appropriate fee will not be processed. The staff advisor will promptly notify the applicant in writing of the omissions pursuant to Section 14.1. The applicant will have 30 days from the time of such notice to submit the required materials or request an extension. In the event that the materials are not submitted within this period and a request for an extension has not been granted, the application will be deemed to have lapsed and no longer eligible for consideration. In this case, the applicant will receive a refund in the amount of 50 percent of the application fee.

15.3 Withdrawal of an application either by the applicant, or because it has lapsed does not preclude a subsequent application by the applicant.

15.4 As soon as reasonably practical after receipt of a completed application for certification or re-certification the staff advisor shall select a member of the Examining Committee to review the completed application for certification or re-certification. If such member deems the individual otherwise qualified he or she shall direct the staff advisor to send the notice of examination form to the applicant providing said applicant with the time and place of the examination. An examination fee of \$250.00 shall be due and payable after an applicant has been notified of their eligibility to take the examination. The payment of such fee is a prerequisite to the taking of the examination. Upon receipt of the \$250.00 examination fee, the staff advisor shall forward an entrance pass form to the applicant.

15.5 If such member deems the applicant not otherwise qualified, he or she shall refer the completed application to the entire Examining Committee who shall conduct a *de novo* review of the application. A majority vote of the Examining Committee then serving shall be necessary to deem the applicant otherwise qualified.

15.6 If the Examining Committee deems the applicant not otherwise qualified, it shall notify the applicant of its decision and provide the applicant with a copy of the appeal procedure by certified mail. Any appeal shall be heard pursuant to Section 11 of these Regulations.

## **Section 16: Time Guidelines**

### 16.1 Completion Dates

First day to File for Examination

30 DAYS LATER Non-standard testing petition deadline

30 DAYS LATER	Application Filing Deadline
45 DAYS LATER	Deadline for Standing Committee to issue letter concerning eligibility of applicant to take exam
15 DAYS LATER	Examination
90 DAYS LATER	Deadline for completion of grading by Examining Committee of examination results
15 DAYS LATER	Standing Committee certification meeting
7 DAYS LATER	Release of results

16.2 Notwithstanding these guidelines, the Standing Committee and/or the Examining Committee are not bound to any specific schedule in processing, evaluating, or deciding on an application for certification or re-certification.

16.3 Applications and the evaluation process will be handled as expeditiously as conditions will allow. An applicant who has submitted all required materials when and as requested and has otherwise complied with the provisions may generally expect to have his or her application acted upon by the Examining Committee in time to have a recommendation submitted to the Standing Committee. However, the Standing Committee reserves the right to modify the schedule of making its recommendation on an individual's certification should circumstances warrant.

**Section 17: Development of Recommendations on Certification Applications**

17.1 The Chair of the Examining Committee will advise the Standing Committee of those names representing individuals who successfully passed the examination and those individuals who were unsuccessful. The recommendation is transmitted in a written report to the Standing Committee Chair.

17.2 The Standing Committee Chair shall notify each applicant of a pass or fail status on the examination. Any applicant who fails shall be notified of the examination results and of their appeal rights by certified mail.

17.3 Any applicant who has satisfied all requirements for certification, but has failed the written examination, may elect to take the examination the next time it is offered. In any such case, the usual application fee shall be waived. The applicant shall be required to pay the examination fee. In addition, the applicant shall only be required to provide updated information concerning continuing legal education activities and to affirm all other information on the original application.

17.4 Within 15 days of the mailing of the notice from the chair of the Standing Committee that the applicant has failed the written examination, the applicant may review a copy of his or her examination at the CBA Law Center at a time designated by the staff advisor. The copy must be reviewed in the presence of the staff advisor. The applicant shall not remove the examination from the CBA Law Center's office.

17.5 If, after reviewing the examination, the applicant believes that an error or errors were made in the grading, he or she may file an appeal in accordance with the provisions of Section 11 of these Regulations.

17.6 The staff advisor shall forward the appropriate certificate to all successful applicants. The Staff Advisor shall retain and file a copy of the certificate by serial number assigned. No individual can use the wording "Board Certified Residential Real Property Specialist" without having been issued a serialized certificate.

### **Section 18: Schedule of Fees and Annual Reporting Requirements**

18.1 CBA Members:		Non-Members:	
Pre-Application Fee	\$ 50.00	Pre-Application Fee	\$ 63.00
Application Fee	\$ 250.00	Application Fee	\$ 313.00
Examination Fee	\$ 250.00	Examination Fee	\$ 313.00
Annual Fee*	\$ 150.00* (←Same→)	Annual Fee*	\$ 150.00

\*Except in last year of any certification period.

18.2 If the applicant has paid the \$50.00 pre-application fee to receive the application and then files a formal application, the \$50.00 shall be deducted from the application fee. In all other cases the fee is non-refundable.

18.3 The non-refundable pre-application fee accompanies the "Notice of Intent to Apply" form which applicants must file prior to receiving an application package.

18.4 The application fee is paid at the time of filing of the formal application. Fifty percent of this fee will be refunded should the applicant withdraw his or her application prior to examination or should the application be deemed to have lapsed in accordance with the Regulations.

18.5 An annual fee of \$150.00 shall be assessed against any attorney who has been certified. The first annual fee is due on January first of the year following the issuance of the certificate. Thereafter the fee is due annually, in January, except for the calendar year during which the attorney's certification or re-certification will expire, when no annual fee is due.

- 18.6 The Staff Advisor shall send a form annually to each certified attorney requesting:
- a. the attorney's continuing legal education data since the attorney's last reporting;
  - b. an affidavit reporting any grievances filed against the attorney and any disciplinary action taken against the attorney, including and sanctions, discipline, or conditions imposed;
  - c. an affidavit Reporting any malpractice actions brought against the attorney;
  - d. a properly executed Certificate of Insurance confirming the existence of a professional liability insurance policy issued by a licensed liability insurance company authorized to insure such risks in the State of Connecticut with minimum coverage of \$300,000.00 per claim, and in the aggregate; and
  - e. any other information the Committee may require to insure that the certified attorney continues to satisfy all of the requirements of certification.



## **Section 19: Communication of Certification**

Upon certification or re-certification and after receipt of a serialized certificate issued pursuant to Section 17 of the Regulations as a specialist in the area of residential real property, an attorney may state that he or she is a "Board Certified Residential Real Property Specialist" pursuant to Rule 7.4a of the Connecticut Practice Book Rules of Professional Conduct.

## **Section 20: Disclosure of Information and Authorization**

Each applicant for certification or re-certification shall authorize the Standing Committee to contact such person or persons as the Standing Committee may deem advisable in the conduct of any investigation or determination by the Standing Committee in connection with the certification, re-certification or suspension of certification of the applicant.

## **Section 21: Conflict of Interest**

### 21.1 General Guidelines

- a. A person with a conflict of interest must be disqualified from any involvement in any certification matter being considered.
- b. It is the duty of any person involved in the certification process to disclose in writing any present or previous affiliation that might lead to the appearance of a conflict of interest.
- c. Any Board Certified Residential Real Property Specialist will become disqualified if he or she holds an office as Superior Court or Appellate Court Judge.

### 21.2 Guidelines for Standing Committee and Examining Committee members

- a. Members of Standing Committee and Examining Committee have significant responsibility in the process of certification and re-certification of attorneys and serve a vital and important function on behalf of the legal profession. To avoid even the appearance of impropriety, it is essential to adhere to the fair and effective functioning of the certification and re-certification process as well as to maintain the public and professional respect for the system and those who act in it to act impartially.
- b. A member or former member of either the Standing Committee or Examining Committee is disqualified from sitting for any examination for a period of one year after the expiration of his or her term or after resignation from the committee.

## **Section 22: Non-compliance with Rules or Procedures**

An applicant for certification or re-certification or any current holder of a serialized certificate of certification granted by the Standing Committee who does not comply with these Regulations may be denied certification or re-certification or may have his or her certification suspended. In addition, non-compliance with the Regulations, including deadlines set, may cause a delay in the disposition of

an application for certification or re-certification.

### **Section 23: Indemnification and Hold Harmless**

An applicant for certification or re-certification agrees to hold and save the Connecticut Bar Association, Standing Committee, Examining Committee, its volunteers, officers, agents and employees harmless from any liability or damage of any kind claimed brought by the applicant for any activity relating to the certification process.

### **Section 24: Adoption and Amendments**

24.1 These Regulations become effective upon the approval of the Legal Specialization Screening Committee, c/o Director of Legal Services, Judicial Department, State of Connecticut, 100 Washington Street, Hartford, Connecticut 06106.

24.2 The power to approve an amendment to these Regulations are vested in the Legal Specialization Screening Committee, however, the Legal Specialization Screening Committee will not act on any amendment until it has first received and considered the advice and recommendation of the Standing Committee and Connecticut Bar Association House of Delegates.

24.3 The Standing Committee may recommend revising or amending the Regulations by a majority vote of those members then in attendance at a regular meeting duly called. The Standing Committee shall report any such proposed revision or amendment to the CBA House of Delegates and the Legal Specialization Screening Committee in accordance with the provisions of Section 2.3.

Version Dated October 2008