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Client Bulletin



Volume XXIX, No. 2

April 30, 2012

Andrew P. Wecker

On May 1, 2012, Andrew (Andy) P. Wecker will join the law firm. Andy will practice primarily in the real estate, construction, and business areas, areas in which he has over 15 years of experience.

After graduating *summa cum laude* from Ohio University, Andy attended The Ohio State University College of Law, where he was Managing Editor of The Ohio State Law Journal and authored O.R.C. Chapter 1705-Ohio's New Statute on Limited Liability Companies.

Andy's extensive real estate experience, in addition to a number of years with law firms, includes three years as underwriting counsel for a major Midwestern land title insurance agency and half a dozen years as in-house counsel for a capital management company/real estate investor, serving as the company's transaction attorney in more than 80 transactions totaling \$142 million and having legal responsibility for approximately 250,000 square feet of medical office space.

Andy, his wife Kendra and their five children reside in the Sunbury area. Andy is a member of the Board of Education of Big Walnut Local School District and is a director and officer of the Central Ohio Chapter of the National Association of Industrial and Office Properties (NAIOP). He has taught continuing legal education courses on real property development, 1031 like-kind exchanges and title insurance.

Sponsor of Professional Advisors Meeting

The law firm is sponsoring the Community Foundation of Delaware County's Professional Advisors Committee's May 15 seminar and luncheon at Delaware County Bank & Trust's corporate offices. Delaware County Probate Court Magistrate R. Lamont Kaiser and attorney William M. Lane will speak on how the March 2012 changes in the Ohio Trust Code and the adoption of the Uniform Powers of Attorney Act can affect actions or recommendations by legal and financial advisors.

COA's Summer Festival Tickets for Sale

Again this year, the law firm is one of the sponsors of the Council for Older Adults Summer Festival and is selling tickets (please see or contact Chris Herring). The tickets are \$7. The Summer Festival is on Friday, June 15, from 3 p.m. to 8 p.m. at the Council's senior center at 800 Cheshire Road.

Ohio Adopts the Uniform Power of Attorney Act

In Sub. S.B. No. 117, which became effective March 22, 2012, Ohio adopted the Uniform Power of Attorney Act in Ohio Rev. Code §§ 1337.21 to 1337.64. The Uniform Power of Attorney Act (the "Act") applies to all powers of attorney except: (a) those coupled with an interest in the subject of the power of attorney, including a power given to or for the benefit of a creditor in connection with a credit transaction; (b) a power to make health care decisions; (c) a proxy or other delegation of voting or management rights with respect to an entity (i.e., a corporation, LLC); and (d) a power created on a form prescribed by a governmental body for a governmental purpose. The Act, except for those types of powers of attorney that are excepted from the Act (see above), among other things, makes Ohio law uniform with the law of other states that have adopted a version of the Uniform Power of Attorney Act, codifies in the Act much case law that the courts developed over the years/centuries, sets forth a statutory form power of attorney that has the meaning and effect prescribed by the Act, and sets forth an agent's (the person/attorney-in-fact granted authority to act by the power of attorney) certification, under penalty of perjury, as to the validity of the power of attorney and the agent's authority. The Act, and its statutory form power of attorney, do NOT preclude special or limited powers of attorney which should be used, rather than a general power of attorney, in a number of special situations (i.e., a special limited real property power of attorney that authorizes the agent/attorney-in-fact to sign documents at a closing on a real estate purchase contract but does not grant any other authority). Although providing for a statutory form power of attorney (which does not have to be used), the Act grants tremendous leeway to expand, preclude or limit the agent's/attorney-in-fact's authority as deemed appropriate in the circumstances. The Act contains numerous provisions that begin with "Unless the power of attorney otherwise provides . . .," so that under the Act an agent/attorney-in-fact may, as a matter of law, have authority to undertake acts/do things even though such authority is not expressly set forth in the power of attorney. Obviously, this can be, in certain situations, a "double-edged sword." Thus, it is suggested that persons with general powers of attorney meet with their attorney to review the existing power of attorney to determine if it still meets their needs after the effective date of the Act or if it should be replaced.

Counter-Complaints to Board of Education Complaints as to Real Estate Valuation

The statutory deadline for filing a complaint against the valuation of real property to change the property's valuation for taxation purposes was March 31. However, when a complaint is filed, if the complaint is filed by the board of education or by another property owner, a copy of the complaint has to be served, by certified mail, on the property owner, who has 30 days after receipt of a copy of the complaint to file a counter-complaint. Auditors typically do not serve property owners with a copy of a complaint filed with respect to their property until after the March 31 filing deadline has passed, and usually not until late April or early May. Thus, if a complaint was filed by the board of education to increase the 2011 valuation of your property, you still probably have time to file a counter-complaint to keep the valuation at the Auditor's valuation or lower.

Notice

This bulletin provides general information and is not legal advice. Please contact us if you need legal advice.

If you have friends or associates who you think would enjoy receiving a copy of this Client Bulletin, please feel free to forward it on. Thank you.

**MANOS, MARTIN &
PERGRAM CO., LPA**

50 North Sandusky Street
Delaware, Ohio 43015-1926

Phone: 740-363-1313

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