A meeting of the California Law Revision Commission was held in Burbank on December 11, 2008.

Commission:
Present: Pamela L. Hemminger, Chairperson
Sidney Greathouse
Frank Kaplan
Susan Duncan Lee, Vice-Chairperson
William E. Weinberger
Justice John Zebrowski

Absent: Diane Boyer-Vine, Legislative Counsel
Ellen Corbett, Senate Member
Noreen Evans, Assembly Member

Staff:
Present: Brian Hebert, Executive Secretary
Barbara Gaal, Chief Deputy Counsel
Steve Cohen, Staff Counsel

Absent: Catherine Bidart, Staff Counsel

Consultants: None

Other Persons:
David Huebner, Sheppard Mullin Richter & Hampton
Lindsay Nichols, Legal Community Against Violence
Dick Pruess, Community Associations Institute
MINUTES OF OCTOBER 29, 2008, COMMISSION MEETING

The Commission approved the Minutes of the October 29, 2008, Commission meeting as submitted by the staff.

ADMINISTRATIVE MATTERS

New Topics and Priorities

The Commission considered Memorandum 2008-54, relating to new topics and priorities, and made the following decisions:

• The Commission will study the treatment of unrecorded options under the Marketable Title Act. (A recent opinion of the Attorney General on recordation of a memorandum of title may be relevant to this study.)
• As resources permit, the Commission will study clarification of the statutes governing place of trial in a civil case.
• The staff will continue to examine the law and practice involved in electronic submissions to state agencies and will report its findings in the next memorandum on new topics and priorities, which is expected to be presented in October 2009.

Annual Report


The Commission approved the draft as its final report, with the understanding that the staff will make minor changes to reflect decisions made at the December 11, 2009, Commission meeting (relating to the Commission’s 2009 program of work). The staff will also add a resolution honoring former
Commissioner Ed Regalia for his service to the Commission, after submitting a draft of the resolution to the Chairperson for her review.

**Report of Executive Secretary**

The Commission welcomed retired Justice John Zebrowski to his first meeting as a new member of the Commission. The Commission also recognized David Huebner for his many years of service to the Commission, including his service as Chairperson in 2006-2007.

The Executive Secretary reported that he will be meeting with newly elected members of the Legislature to familiarize them with the Commission’s function and process.

**LEGISLATIVE PROGRAM**

The Commission considered Memorandum 2008-56, reporting on the Commission’s 2009 legislative program. The staff supplemented the report orally, reporting the following developments:

- Senator Tom Harman has expressed interest in introducing a bill to implement the Commission’s recommendation on *Donative Transfer Restrictions* (Oct. 2008). It is expected that the bill will also correct cross-references to provisions of the no contest clause statute that were repealed by SB 1264 (Harman).

- Senator Alan Lowenthal has expressed interest in introducing a bill to implement the Commission’s recommendation on *Mechanic’s Lien Law*, 37 Cal. L. Revision Comm’n Reports 527 (2007). As introduced, the bill will include substantive reforms that were removed from SB 1691 (Lowenthal).

- Assembly Member Jim Silva has expressed interest in introducing a bill to implement the Commission’s recommendation on *Technical and Minor Substantive Statutory Corrections: References to Recording Technology*, 37 Cal. L. Revision Comm’n Reports 211 (2007).

The Commission directed the staff to prepare a draft recommendation explaining the need to correct cross-references as a result of changes made by SB 1264 (Harman). The draft will be presented at the February 2009 meeting.
The Commission considered Memorandum 2008-64 and its First Supplement, providing a status report on work being done to solicit input from a group of common interest development attorneys who have expressed concern about the Commission’s recommendation on the statutory clarification and simplification of CID law.

The Commission made the following decisions on how to proceed:

(1) The Chairperson will send a letter to the attorney group expressing disappointment that the group will not be able to provide its views by the end of 2008 as expected. The letter will also request that the group submit its report by March 31, 2009, and request that the group send a representative to the Commission’s February 2009 meeting to report on its progress.

(2) The Commission will not seek to introduce implementing legislation in 2009.

(3) Input from all interested persons and groups is invited and will be given due consideration in determining whether any changes need to be made to the Commission’s recommendation.

The Commission considered Memorandum 2008-63 and its First and Second Supplements, introducing the study of the application of the Davis-Stirling Common Interest Development Act to nonresidential developments. The Commission approved the general methodology outlined in the memorandum, and made the following decisions:

• The Commission will defer deciding how to define a nonresidential development, pending further research by the staff and contact with the California Department of Real Estate.

• The Commission will also defer a decision as to how mixed use developments should be treated in this study.

The Commission considered Memorandum 2008-57, Memorandum 2008-58, Memorandum 2008-59 and its First Supplement, Memorialandum 2008-60,
Memorandum 2008-61, and Memorandum 2008-62 and its First Supplement, relating to nonsubstantive reorganization of the deadly weapon statutes. The drafts and staff recommendations are acceptable, subject to the following decisions:

**Distribution of Tentative Recommendation**

The Commission’s goal is to approve a tentative recommendation at the February meeting. The staff noted that in accordance with the Commission’s standard practices, the tentative recommendation will be posted on the Commission’s website and distributed to the organizations and individuals on its traditional mailing list for this study. E-subscribers will be notified that the tentative recommendation can be downloaded from the Commission’s website. The staff observed that input on which organizations should receive the tentative recommendation would be useful.

To facilitate such input, the Commission directed the staff to provide a list for the February meeting of the organizations to which it plans to distribute the tentative recommendation. At the meeting, the Commission will consider whether any changes should be made to that list. Suggestions are welcome at any time.

**Proposed Penal Code § 16520. “Firearm”**

In the definition of “firearm” presented at pages 3-5 of Memorandum 2008-58, subdivision (g) should be revised as follows:

(g) As used in Sections 29010 to 29145, inclusive, “firearm” includes the unfinished frame or receiver of a weapon that can readily be converted to the functional condition of a finished frame or receiver.

In the Comment, the citation to the definition of “antique firearm” should be revised to refer to Section 16170, instead of Section 16710.

**Proposed Penal Code § 16820. “Licensee”**

The definition of “licensee” that applies to existing Penal Code Section 12086, relating to manufacturing of firearms, should be kept with the substance of Section 12086, instead of being placed in the “Definitions” portion of new Part 6. Subdivision (b) of proposed Penal Code Section 16820 should be converted to a guidepost provision, similar to the guidepost provision in subdivision (a), which directs readers to the definition of “licensee” for purposes of dealing firearms.
Proposed Penal Code §§ 17111-17112. Standard definition and special definition of “secure facility” for firearm storage by manufacturer

The definition of “secure facility” for firearm storage by a manufacturer (proposed Penal Code § 17111) and the special definition of “secure facility” for firearm storage by a manufacturer producing fewer than 500 firearms per calendar year (proposed Penal Code § 17112) should be relocated. They should be placed immediately after proposed Penal Code Section 29140, which is the only provision to which those definitions apply. Guidepost provisions should be put where the definitions were previously located.

Proposed Penal Code § 29535. Exemption from Administrative Procedure Act

The staff should check whether proposed Penal Code Section 29535 ought to refer to proposed Section 29515, in addition to proposed Sections 29500, 29505, 29510(a), 29520, and 29525. The staff should report back on this matter.

Proposed Penal Code §§ 29800-29805. Person Convicted of Violent Offense

The chapter on “Person Convicted of Violent Offense” (proposed Penal Code §§ 29800, 29805) should be relocated. It should be placed after the chapter on “Person Convicted of Specified Offense, Addicted to Narcotic, or Subject to Court Order.” This will track existing law and the manner in which the law developed.

Proposed Penal Code § 29975. Protocol for implementation of Section 12021, to be completed by January 1, 2005

In Memorandum 2008-59, the staff requested input on whether proposed Penal Code Section 29975 is obsolete, and whether to include the possibility of deleting it on the Commission’s list of “Minor Clean-up Issues for Possible Future Legislative Attention.” Lindsay Nichols of the Legal Community Against Violence informed the Commission that it is important to retain the provision in the code. Having received this input, the Commission decided not to include the possibility of deleting the provision on the Commission’s list of “Minor Clean-up Issues for Possible Future Legislative Attention.”

Proposed Penal Code § 30100. Fingerprint requirement


The Commission discussed whether to delete proposed Penal Code Sections 30150 to 30165 as “unnecessary, illogical, and potentially confusing,” as recommended by the staff at pages 2-3 of Memorandum 2008-59. The Commission determined that the provisions might be useful in some contexts and should be included in the tentative recommendation. That approach will also be most consistent with the nonsubstantive nature of this study.

Proposed Penal Code § 30310. No ammunition or reloaded ammunition on school grounds

Proposed Penal Code Section 30310 is acceptable as drafted. A guidepost provision should be added to the chapter on “Schools.” The Comment to the guidepost provision should make clear that the provision is for informational purposes only, has no substantive effect, and shall not be read to imply that Section 30310 is the only provision governing ammunition on school grounds. The possibility of relocating the substance of proposed Section 30310 to the chapter on “Schools” should be added to the Commission’s list of “Minor Clean-up Issues for Possible Future Legislative Attention.”

List of “Minor Clean-up Issues for Possible Future Legislative Attention”

The tentative recommendation should include a proposed uncodified provision authorizing the Commission to study the issues on its list of “Minor Clean-up Issues for Possible Future Legislative Attention.” The staff should present a draft of this provision for the Commission to review at the February meeting.

Deferred Operative Date

The tentative recommendation should propose a one-year deferred operative date for the nonsubstantive reorganization of the deadly weapon statutes.