

## Real Estate Law Section Comments on Land Court Efficiency Proposals



Last week, the Boston Bar Association (BBA) submitted comments to the Land Court in response to its request for feedback on proposed Rule 14 and Standing Order 1-16. These proposals grew out of the Supreme Judicial Court and [Chief Justice Ralph Gants' efforts to improve judicial efficiency](#) by offering litigants a “menu of options” for civil litigation. Both proposals are the work of the Land Court’s Alternative Litigation Options Working Group (Working Group), which included three current and

former members of the BBA’s Real Estate Law Section – [Daniel Dain of Dain Torpy, Michael Fee of Pierce & Mandell](#), and [Johanna Schneider of Rackemann, Sawyer & Brewster](#).

Proposed Land Court Rule 14 would permit the Court to make binding summary decisions without making findings of fact and without stating separately the Court’s conclusions of law following a trial or evidentiary hearing, and only upon voluntary stipulation by the interested parties. Proposed Standing Order 1-16 authorizes the Court, after discussion with counsel, to order limited discovery and schedule an early trial.

The BBA’s Real Estate Law Section Steering Committee discussed all of the Working Group’s proposals and drafted [comments](#), noting their general approval of the increased efficiency these proposals may allow as well as some specific comments they hoped the Court would consider, including:

- Urging the Court to consider, in order to protect client interests, requiring both counsel and clients to execute stipulations to allow the Court to make expedited Proposed Rule 14 decisions.
- Expressing concerns about how decisions under Proposed Rule 14 would be reviewed at an appellate level.
- Requesting that the Court clarify its discretion under Proposed Rule 14 on when it can disregard the parties’ stipulations.
- Requesting more guidance on the Court’s power to accept or reject undisclosed documents under Proposed Standing Order 1-16, specifically questioning whether the Court could hold as inadmissible, witnesses or documents that were not initially disclosed, and also whether parties discovering a claim or defense that was not initially contemplated could be barred from asserting them.

Read the full comments [here](#).

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