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October 28, 2024

John M. Nolan
Chair, Member Selection Committee
c/o American College of Real Estate Lawyers
220 N Market Street, Suite 100
Frederick, MD 21701

Dear Mr. Nolan:

It is with great pleasure that I second the nomination of David S. Fitzhenry for membership in the American College of Real Estate Lawyers made by Ronald Sernau.

I cannot recall when I first met David although it had to be more than 15 years ago, but I can say with certainty that it was in a professional capacity and that at the time he was not the lead counsel in the transaction but rather played the role of second chair. Nevertheless, he impressed and over the years he has continued to do so as he has moved from second chair to lead counsel in all of the more current transactions. I can say with certainty that given his area of expertise – condominium formations and the laws surrounding offerings of the same – we have had the opportunity over those years to represent clients on the opposite side of the table from one another and as co-counsel in many a transaction. So impressive has been his performance that I have come to rely on his judgment and have recommended him to many a client when his particular area of expertise comes into play. Our interactions have been often and prolonged, always collegial, always striving for excellence and, I would like to think, sometimes innovative.

Throughout these interactions I have come to know Mr. Fitzhenry well, watching him contribute to the cause in proposing numerous alternatives and approaches, keeping everyone engaged and focused with his calm demeanor, leading informed (and sometimes spirited) discussions about alternatives and always sharing his good humor. I enjoyed much the repartee with him during the long (quiet) periods when we had to simply share each other's company.

Mr. Fitzhenry is a professional. His work product is always of the highest caliber. His ability to consolidate and address multiple points of view at once and to empathize with the needs of all involved always make it much easier to reach consensus. He is respectful of others, and respected. He is practical – understanding that much is required to coalesce a group for focused action. Mr. Fitzhenry has always (and does), without fail, adhered to the highest ethical standards, does a superb job in representing his clients, and is recognized as a preeminent practitioner in the New York metropolitan area in his field of expertise. In short, Mr. Fitzhenry evidences all of the skills and attributes of a seasoned professional of the type we seek to have joint ACREL.

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I have received and reviewed the Proposal for Membership submitted by Mr. Sernau and certify that David Fitzhenry satisfies the criteria for selection to the College as set forth in Section 4 of the Guidelines for Regular Member Selection. In my opinion and to my knowledge, the Nominee satisfies ACREL's Statement of Professionalism and exemplifies the standards of professional integrity and civility as provided in the Guidelines. I am not (a) in the same firm, business entity, faculty or other organization as the Nominee, (b) related by birth or marriage to the Nominee, or (c) a current Governor or member of the Member Selection Committee of the College. I hereby certify that neither the nominee nor his/her employer regularly employs or retains me or my law firm or employer, and my business relationship with the nominee is simply to have labored in a good number of transactions with him, as both co-counsel and opposing counsel, over the years with superb results.

I would be delighted to discuss the candidacy of Mr. Fitzhenry with you should you so advice.

Yours truly,
ACREL Member

Chris M. Smith

Chris M. Smith

cc: Ronald Sernau