

To: The Commissioners of the Uniform Law Commission
From: American College of Real Estate Lawyers
Date: July 3, 2019

Re: Uniform Tort Law Relating to Drones Act (“Act”)

The American College of Real Estate Lawyers (“ACREL”) is an organization representing attorneys specializing in real property law. Its over 1,000 members include over two dozen law professors specializing in real property and attorneys representing virtually every conceivable interest in real estate including lenders, institutional investors, developers, community associations, private equity and mortgage securities.

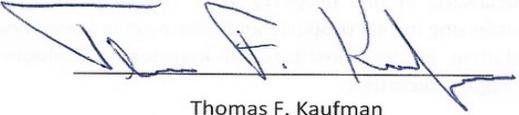
I am the chairperson of the Amicus and Public Advocacy Committee of ACREL (“Advocacy Committee”) and a former president. The diversity of interests in ACREL almost always makes it impossible to take a uniform position on public policy because of the differing interests of the members and their clients. This is one of those extraordinary events where ACREL members are united in opposing the present legislative proposal on drones. ACREL does not support the Act in its present form and its members actively would oppose enactment of the Act in its present form by any state or other governmental entity.

The Act does not strike a fair, or virtually any balance, between the interests of land-owners and land-users and those who use drones and related photography. Technology is a powerful tool that has dramatically improved the life of virtually everyone from advances in healthcare, education, communication and multiple other areas. Technological innovation must be nurtured and widely adopted. On the other hand, the unfettered use of technology can cause serious problems and be greatly abused. For example, facial recognition has benefits, but when used to create a “citizenship score”, most would think it highly abusive. Similarly, remote digital photography, when misused, can create unacceptable invasions of privacy.

Drones serve many valuable purposes, including rescue operations, disaster management, surveys, inspecting storm damage and potentially shipping. On the other hand, the average land user/owner is ill-equipped to even identify the drone or its operator, let alone meet the standard required in the present draft to prevent an invasion of their privacy. Maybe one way to think of the balance is to imagine how you balance the delivery of critical life-saving rescue operations to your family, grandparents or grandchildren with the potential misuse of intrusive photography against these same extended family members.

ACREL supports changes, such as those in the JEBURPA and ABA correspondence you previously have seen and in the [attached Memorandum](#) from Professor Henry E. Smith (Reporter to the Fourth Restatement of Property), to strike a fairer balance. Also attached is [Professor Smith’s short response](#) to the Drone Lobby’s letter responding to comments of the JEBURPA, the ABA’s Real Property Trust & Estate Law objection and his initial memo. Professor Smith cogently lays out proposed changes and the reasoning. Clearly there are other possible changes to remedy the present problems. Open discussion, civil discourse, compromise and a balancing of interests, are the keys to developing fair and effective legislation, especially in this complex area of evolving technology. The purpose of this short memo is not to lay out all of the complex problems and solutions as you have already been bombarded with such data, but to insist that the balance be made much fairer to private individuals who can greatly benefit

from this technology when used for serious public purposes, but also be horribly victimized by invasions of privacy when the technology is abused or used haphazardly.



Thomas F. Kaufman

Contact [Thomas F. Kaufman](#), Chairperson of the Amicus and Public Advocacy Committee