

MINUTES
CBA Real Estate Law Section Council
Date: Tuesday, March 21, 2023 – 3:00 p.m.

Colorado Bar Association
1290 Broadway, Ste. 1700
Denver, Colorado 80203

Call to Order Amy Brimah

1. Introductions Amy Brimah

2. Approval of February Minutes Amy Brimah

The February minutes were approved by unanimous vote.

3. Financial Report \$61,132.44 **as of February 28, 2023)**.....Angie Schmitz

Angie Schmitz presented the financial report.

4. Chair’s Report Amy Brimah

a. Update on Symposium.....Jim Meseck and Susie McNulty

Jim Meseck and Susie McNulty provided an update on Symposium. The content is set, order of events is being worked on. The group discussed Hawaiiian Shirt Day. Ms. McNulty mentioned that another section received feedback with concern that it may be cultural appropriation in a negative manner. Mr. Meseck and the group agreed with proceeding with Hawaiian shirt day, but avoid “luau celebration”. The hotel reservation deadline has not occurred yet, the block is reserved. The symposium registration marketing deadline hasn’t occurred yet. Habitat for Humanity will have a table and will have their room covered.

Hotel Reservation Link below

<https://book.passkey.com/e/50399471>

b. Discussion of subgroup for Affordable Housing.....Melinda Paquini, Amy Brimah

Melinda Pasquini reviewed the procedures for a subgroup in the bylaws. A committee is permitted. It can have an end date or be continuous. The Business Law Section has committees. Attendance at Colorado Housing Council meetings can be one of the committee’s duties. Also the task force for affordable housing can report to the committee. It’s a good way to have people involved who are not on council, and who are involved in other sections. Ms. Pasquini clarified that members of a committee do not need to be section council members; she will verify this after reviewing bylaws.

Catherine Hance noted that the title standards committee has non-council members.

Ms. Pasquini notes that the chair of the section appoints the members and the chair of the committee.

Joan Fritsche moved to create an Affordable Housing Committee; Lindsay O’Connell seconded; the motion passed unanimously.

Amy Brimah noted that creating this committee will require a change to the bylaws, which we can do in April.

- c. Community Associations Inst. (CAI)—discussion of liaison.....Amy Brimah , CCIOA task force

Ron Jung noted that more info is better and we have had success with the CAR liaison. He does not have a strong opinion either way.

Reagan Larkin will inquire whether CAI would like to participate in the Interprofessional Committee.

Ms. Brimah noted that the bylaws allow creation of liaison positions.

Mr. Jung moved to invite a CAI liaison, Ms. Larkin seconded, the motion passed unanimously.

Ms. Brimah instructed the CCIOA task force to convene and recommended a person to be the liaison

- d. Happy Hour, following the meeting, Bar OfficesAmy Brimah
- e. Applications for Section Council and Leadership (update).....Amy Brimah

Ms. Brimah announced that Ms. O’Connell, Ms. Schmitz, and Ms. Fritsche will meet to nominate and secretary, LPO, and council members.

- f. 3-person Committee for Willis Carpenter AwardAmy Brimah
Application period in April, Selection May 15

Ms. Brimah announced that applications will be announced so people can apply. A 3-person committee will choose the recipient. Ms. Brimah is on the committee.

Zak Kessler and Steve Nagy volunteered to serve.

Ms. Ham will prep the award and take care of the engraving.

5. Action Items:

- a. Funding Request for Habitat Humanity rep hotel room at Symposium.....Jim Meseck

Mr. Meseck presented the request. Habitat is our sponsored charity. We want them to attend symposium. The cost is not in the budget. They will have a table there.

Mr. Jung further noted that they need someone to staff the table and they need lodging in Vail. The table will help them get donations. He is requesting funding for Thursday and Friday nights and for the cocktail reception.

Mr. Jung moved for the section to fund lodging and food for Habitat personnel during symposium. Ms. O’Connell seconded, there was a unanimous vote in favor.

b. Votes on Reviewed Bills.....Amy Brimah

Bill number	Bill Name	Recommendation	Reviewer	
SB23-184	Concerning Protections for Residential Tenants	<p>Amend</p> <p>Discussion: Mr. Jung would prefer to oppose rather than Amend.</p> <p>Ms. Stodden responded that the task force wanted to address the goal of the bill and see if there are ways to achieve it that won’t increase litigation and costs.</p> <p>Mr. Kesser moves to amend, Mr. Aldrich seconds, the vote is 15 in favor. Mr. Jung voted to oppose.</p>	Landlord Tenant Task Force	<p>Hearing in Local Government and Housing on March 28</p> <p>Deanne Stodden presented the reasons for the reviewers’ positions on the bill: The section that were the most concerning were those about rental history and income. The sections should only apply to tenants who have a subsidy that covers all of the rent. Mortgagees have a duty to lenders to only rent to qualified renters. It is a problem if landlords have to enter into leases with people they know can’t afford the lease Also co-signers should be more financially secure than the tenant since they are paying for their own housing. The intent is to address implicit bias, but the task force is concerned that there will be increased litigation and failure of landlord tenant relationships</p>
SB23-178	Concerning Water-Wise landscaping in HOAs	<p>Amend</p> <p>Mr. Jung moved to amend, Ms. McConnell seconded,</p>	CCIOA task force	Hearing in Local Government and Housing on March 28

		the motion passed unanimously		<p>Mr. Jung presented the position: The bill requires procedures for HOAs to allow garden designs and contents of gardens.</p> <p>Ms. Fritsche noted that having three pre-approved designs will benefit smaller HOAs and will allow different kinds of vegetation.</p> <p>Ms. O’Connell prefers that there be less control on what HOAs can do.</p>
HB23-1233	Electric Vehicle Charging and Parking	<p>Monitor</p> <p>Mr. Kessler presented the memo. He believes this is a policy judgment. A tenant can provide their own electrical vehicle charging, but very few would be able to afford it.</p> <p>Zak: pure political policy judgment. Tenant can provide their own electrical vehicle charging at apt if you pay for it. Can contract for this in lease. Requires adoption of rules first.</p> <p>Mr. Nagy is concerned about the landlord tenant requirements, and whether it is retrospective or prospective.</p> <p>Mr. Kessler will prepare a memo on this issue, makes a</p>	Multifamily and Affordable Housing Task Force	

		motion to do this, Ms. Fritsche seconds, unanimous vote.		
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6. Legislative.....Tyler Mounsey

a. Update on Legislative Session.....Tyler Mounsey, Adam Aldrich

Mr. Mounsey presented an update. There are 48 days left in the session. For many real estate bills, the House is not interested in making the changes we are suggesting. This is true for 1190 (local government right of first refusal) and 1186 (remote testimony).

1171 (for cause eviction) has been amended heavily.

1137 is the HOA rehash, it has not been addressed yet. The deadline for new bills is 3/22.

Mr. Mounsey will be meeting with the Speaker of the House.

For the Fairways bill, Mr. Mounsey has found a sponsor. They are seeking late bill status.

Ms. Ryan noted that other groups are seeking a change to 1190 that would remove sales by public trustees. Waiting additional time for buyers in foreclosure would be a great hardship. Mr. Mounsey will review that change.

Ms. Pasquini noted that several groups may agree to pursue an amendment that changes what triggers a right of first refusal.

Ms. Pasquini also noted that the Governor will announce a land use bill this week.

b. SB23-090 UCC Bill Andy Toft

Mr. Toft updated the group on the bill. There is a concern that the bill will have an adverse effect on crypto. The drafters say that perception is wrong. Mr. Toft will communicate further with Mr. Mounsey about it.

7. In the News

a. “Colorado Landlords say eviction-protection proposal could make dropping problem renters too hard”, March 3, 2023, Denver Post. 1171

Mr. Damian Cox noted that CAR now has a neutral position since the bill no longer continues tenancies if the property is sold, though a lease still continues despite sale.

b. “Colorado Property owners to face astronomical tax increases next year”, March 4, 2023, Denver Post.

REPORTS AND INFORMATIONAL ITEMS

8. Interprofessional Committee Reagan Larkin, Eric Snyder

Ms. Larkin reported that the group discussed 1190 and is very concerned about it.

9. Education CLE Committee..... Steve Nagy, Ron Jung, Miro Kovacevic, Michelle DeVoe

Mr. Nagy reported that the spring CLE was successful with a good turnout.

Ms. Brimah noted that the reception at the ART hotel also had a good turnout.

10. Education/Topical Lunches Committee Deanne Stodden, Marjorie Sant, Michelle DeVoe, Miro Kovacevic

Ms. Stodden reported that Erin Clark will present in April, and they are looking for May and June presenters. The committee wants to stop hybrid presentation and do all zoom. The largest in person attendance has been 5. Also the committee believes that 12 per year is too many. They believe 6 or 7 is the right number. They would like to experiment with breakfast or happy hour timing.

Ms. Brimah noted that these are decisions at the discretion of the committee.

Ms. O’Connell noted that the joint CLE with construction section could be in the lunch format.

11. Communications Committee..... Zak Kessler, Eric Snyder, Joan Fritsche, Reagan Larkin, Michelle DeVoe

Mr. Kessler announced that the newsletter will come out in April, will cover the symposium.

12. Publications Committee..... Eric Snyder, Steve Nagy, Reagan Larkin

Mr. Snyder announced that the current Colorado Lawyer has a dirt in the courts article; in May there will be an article on Short Term Rentals; Mr. Aldrich will have a legislative update in October.

Other article ideas were discussed: landlord tenant legislation (Steve Nagy); Business Judgment Rule for HOAs (Mr. Kovacevic)

13. Community Service Committee..... Ron Jung, Marjorie Sant, Steve Nagy, Lyndsey O’Connell, John Koeche

14. Membership and Practice Development Joan Fritsche, Zak Kessler, John Koechel, Lyndsey O’Connell

Ms. Fritsche announced that there will be a reception for the Real Estate Practice class and others next week.

There will be two joint CLEs with Construction Law—construction defect in September and Mechanic’s Liens in September.

15. UCC Taskforce.....Zak Kessler, Eric Snyder, Joan Fritsche, Andy Toft, Lyndsey O’Connell

16. CBA Ethics Committee Liaison Kate Strauss

17. CBA Tax Section Liaisons.....Tyler Murray, Bobbie Collins

18. Colorado Housing Council.....Deanne Stodden

Mr. Mounsey and Mr. Meseck attended.

19. CBA Trust and Estate Section.....Chad Rounds

Mr. Rounds announced the update: the section is working on a model beneficiary deed to trust, and a new power of attorney provision (for an agent to create an income trust for Medicaid purposes).

They are looking at amending the court visitor statute, and the wrongful death statute (right now only spouses and children can sue; other states allow PRs to sue)

They are discussing whether solo and small firms should do formal succession planning.

20. Forms Committee Liaison..... Geoff Anderson

Mr. Anderson reported that they are working on a form for benchmarking—a requirement that owners of commercial buildings report on energy performance and greenhouse gas emissions.

21. CAR Liaison..... Damian Cox

Mr. Cox reported on their major bill positions: oppose rent control option; amendment of local government right of first refusal.

22. CBA Business Section Liaison..... Andy Toft

Mr. Toft reported that the business section is working on a consumer credit bill and the UCC bill.

23. Board of Governors.....Katy Dunn

24. CBA Title Standards.....Catherine Hance, Geoff Anderson

No report

25. Multifamily and Affordable Housing Taskforce....Erin Clark, Zak Kessler, Lyndsey O’Connell,
John Koechel, Michelle DeVoe, Melinda Pasquini

26. CCIOA Taskforce..... Ron Jung, Miro Kovacevic, Eric Snyder, Reagan Larkin, Justin Nyberg,
Suzanne Leff, Joey Lubinski

27. Landlord/Tenant and Foreclosure Taskforce Deanne Stodden, Steve Nagy, Reagan Larkin,
Zak Kessler, Carolin Topelson

INACTIVE

- 28. **Oil and Gas, Water & Natural Resources Taskforce** Marjorie Sant, Steve Nagy, Michelle DeVoe, Amy Mowry
- 29. **Eminent Domain Taskforce** Steve Nagy, Miro Kovacevic, Jody Alderman
- 30. **Special Districts Taskforce**.....Joan Fritsche, Marjorie L. Sant, John Koechel
- 31. **Records Redaction Taskforce** Steve Nagy, Geoff Anderson, Reagan Larkin
- 32. **CBA Young Lawyers Division**Diana Mendez, Dani Kaiser
- 33. **Diversity and Inclusion Liaison** Eric Nesbitt
- 34. **CBA Cannabis Law Committee Liaison**.....vacant
- 35. **Regional Membership Liaison**Doug Tueller
- 36. **Access to Justice Liaison** Andy Toft

NEW MATTERS

ADJOURN

2022-2023 Meeting Dates

Tuesday August 16, 2022

Tuesday September 20, 2022

Tuesday October 18, 2022

Tuesday November 15, 2022

December Holiday Party – December 8, 2022 Location: Catherine Hance’s Home, One Cheesman Park, 1201 N Williams St, 19th floor party room

Tuesday January 17, 2023

Tuesday February 21, 2023

Tuesday March 21, 2023

Spring Meeting (April 20-22, 2023, Thurs-Saturday, The Elizabeth Hotel, Fort Collins, Council meeting on April 21)

Tuesday May 16, 2023

Tuesday June 20, 2023 (tentative)

ATTENDANCE ROSTER
Real Estate Law Section Council
March 21, 2023
COLORADO BAR ASSOCIATION
In-Person/Remote Meeting

NAME	PRESENT	EXCUSED	ABSENT
Officers:			
Amy Brimah – Chair	X		
James M. Meseck – Vice Chair	X		
Angie Schmitz - Secretary	X		
Adam Aldrich – Legislative Policy Officer	X		
Katy Dunn – Board of Governors Representative			
Members:			
Eric Snyder (2023)	X		
Ron Jung (2023)	X		
Zak Kessler (2023)	X		
Marjorie Sant (2023)	X		
Steve Nagy (2024)	X		
Reagan Larkin (2024)	X		
Deanne Stodden (2024)	X		
Joan Fritsche (2024)	X		
Lyndsey O’Connell (2025)	X		
John Koechel (2025)	X		
Michelle DeVoe (2025)	X		
Miro Kovacevic (2025)	X		
Committees / Liaisons:			
Melinda Pasquini - Immediate Past Chair RESC	X		
Chuck Calvin – Fairways Taskforce Chair			
Chad Rounds – Trusts and Estate Liaison	X		
Damian Cox –CAR Liaison	X		
Geoff Anderson – RE Title Standards/Forms Liaison	X		
Jody Alderman – Eminent Domain Committee Liaison			
Tyler Murray – Tax Section Liaison			
Bobbie Collins – Tax Section Liaison			
Danielle Kaiser – YLD Liaison			
Diana Mendez - YLD Liaison			
Catherine Hance –RE Title Standard Committee	X		
Suzanne Leff – Past Chair RESC			
Doug Tueller – Regional Liaison			
Andrew Toft – Access to Justice Liaison/Business Section	X		
Kate Strauss- Ethics Committee Liaison			
Eric Nesbitt- Diversity Liaison/Inclusion Taskforce Chair			
Eric Jaworski – Cannabis Liaison			

Brianna Dowling – Inclusion Task Force			
Amy Mowry – Oil & Gas/Water/Nat'l Resources			
Staff & Guests:			
Jess Ham	X		
Amy Sreenen (CBA)			
Amy Larson (CBA)			
Susie McNulty (CLE)	X		
Tyler Mounsey (CBA)	X		
Julie Waggoner, Past Chair RESC			
Dan Sweetser, Past Chair RESC			
Holly Ryan	X		
Anna Cherubim, Tueller and Gibbs	X		
Claire Havelda, Brownstein			
Chris Payne	X		
Justin Nyberg	X		
Christine Francescani, Fairfield and Woods	X		