

MINUTES

CBA Real Estate Law Section Council

Date: Tuesday, November 16, 2021 – 3:00 p.m.

Colorado Bar Association

1290 Broadway, Ste. 1700

Denver, Colorado 80203

Call to Order 3:04 Melinda Pasquini

1. Introduction of Guests Melinda Pasquini

None.

2. Approval of October Minutes Melinda Pasquini

The October 2021 Minutes were, after a motion and second, unanimously approved.

3. Financial Report \$106,877.63 as of October 31, 2021 Jim Meseck

4. Chair’s Report..... Melinda Pasquini

a. 2022 Symposium Update..... Amy Brimah

Ms. Amy Brimah provided an update on the 2022 Real Estate Symposium. Ms. Brimah and Ms. Kendra Yates are working on completing the symposium program. However, Ms. Yates announces she has resigned effective December 3, 2021. The Symposium will take place starting on July 14, 2022 and conclude on July 16, 2022. The Symposium will be held at the Vail Marriott Mountain Resort. Members will have the option of attending the Symposium in-person live or by a remote hybrid version. There are still spots for speakers. Traditional social events and new activities are being planned.

b. CBA CODACC 2022

Ms. Pasquini introduced the CBA’s CODACC 2022 plans. Ms. Pasquini explained that this program was part of the CBA’s ongoing efforts to promote diversity, inclusiveness, and equity through education and programing targeted at generating awareness. Three retreats are planned. Ms. Pasquini urged anyone interested in applying for the limited available openings to attend the CODACC 2022 event this upcoming spring. The application deadline is December 13, 2021. The application form and links to the application were provided and distributed with the Agenda along with the course materials from CODACC 2021. Ms. Pasquini announced that there were 2 scholarship sponsored opportunities by the RESC. Ms. Pasquini explained the application process for the scholarships, the selection process and what the scholarships will cover and not cover. Ms. Pasquini asked for 2 volunteers to select the scholarship recipients. Ms. Reagan Larkin and Mr. Steve Nagy volunteered.

i. CODACC 2021 -

<https://www.cobar.org/Portals/COBAR/Repository/Governance/322/CODACC%20Presentation.pdf?ver=IACVcVQqJRvsG2Eq9EN6MA%3D%3D>

ii. Application – Deadline to Apply December 13, 2022

- <https://www.cognitofirms.com/ColoradoBarAssociation1/ColoradoDiverseAttorneyCommunityCircleCODACCClassOf2022Application>

iii. 2 Scholarships

c. Salvation Army Fundraiser.....Cindy Lowery-Graber

Ms. Cindy Lowery-Graber reminded everyone of the ongoing Salvation Army fundraiser that will be extended through the holidays with the opportunity for a match. Ms. Lowery-Graber explained how people could still donate. Approximate \$1,800 has been raised. There is still room to reach the \$5,000 match. A link and information will be provided to members on how they can donate to take advantage of the match.

Also, per Ms. Lowery-Graber, the Community Service Committee met. A survey will be developed and sent to identify volunteer opportunities for members.

d. Election Results Impact on Real Estate

Ms. Pasquini raised the topic of the election results. Since all statewide initiatives were voted down, there is not expected to be any direct impact on real estate related matters on a state-wide level. Local voter initiatives that passed are still being evaluated and any impact identified. Ms. Pasquini brought up Denver initiatives that were voted down regarding occupancy requirements of 5 unrelated adults, camping bans, and Park Hill Golf Course competing use and development initiatives. Ms. Erin Clark provided additional details about how decision-making is being discussed for the Park Hill Golf Course development and use in terms of how the conservation easement may be removed and who gets to decide on what happens in that event the conservation easement is lifted. All of the proposed bonds in Denver passed except the National Western proposal.

e. Plan for December – No Meeting

Ms. Pasquini announced that there will be no December meeting of the Section Council.

f. Holiday Party – Thursday December 2, 2021 5:30 PM to 8:30 PM MST

One Cheesman Place Condos - Party Room - 1201 N. Williams Street - 19th Floor
Denver, CO 80218

Ms. Brimah announced that invitations were sent out electronically for the holiday party. Everyone is encouraged to check their email and RSVP.

g. Happy Hour at Pints Pub - British Gastro Brewpub & Restaurant, 221 W 13th Ave.

Mr. Jim Meseck invited all attendees to come to the happy hour after today’s meeting.

ACTION ITEM:

5. Title Standard 8.4 Fractional Mineral InterestsCatherine Hance, Geoff Anderson

Ms. Catherine Hance and Mr. Geoff Anderson introduced Title Standard 8.4 Fractional Mineral Interests. It was explained by Mr. Anderson that the purpose of the proposed title standard was to address provisions in deeds related to partial mineral interests and reservations of interests and ways Colorado courts interpret these types of deeds. The problem is with the records having a history of documents that include a reservation of mineral rights and subsequent conveyance with a reference but without addressing or referencing prior reservations of mineral rights. The proposed Title Standard tries to address the issue by being specific and clear with intent and to avoid future problems. The previously provided Note addresses case where this has been a problem. Problem C in the Note comes from case law where there was a reservation but the individual ended up with no interest. There is also confusion on reliance of chain of title, especially as to intentions of the parties per Mr. Anderson. The case law shows inconsistency in how courts resolve such disputes. Ms. Brimah moved to approve proposed Title Standard 8.4 Fraction Mineral Interests as drafted. The motion was seconded. The motion passed. Title Standard 8.4 Fractional Mineral Interests was unanimously approved.

6. Legislative.....Robin Nolan/Andy White/Jim Meseck

a. LPO Report.....Robin Nolan

Legislative Policy Officer Ms. Robin Nolan reported that preparations are underway for the upcoming legislative session starting on January 12, 2022. The Fairways at Buffalo Run proposed legislation is on track. The Removal of Race-Based Covenant Taskforce is meeting. The CCIOA taskforce will be meeting but no specific legislation has been identified at this time. Ms. Nolan will be distributing a memo on how proposed legislation is to be reviewed and evaluated.

b. Legislative Liaison Report.....Andy White

<https://legisource.net/2021/11/04/the-2022-legislative-session-is-just-over-two-months-away/>

Mr. Andy White reported that the next few months will be busy as he prepares for the upcoming legislative session. The legislative session is set to open on January 12, 2022. Mr. White expected there will be many bills that are introduced that will impact Colorado real estate law. LPC has one more meeting before the legislative sessions. All CBA members are welcomed to attend. Yesterday, the Colorado Supreme Court ratified the proposed congressional and legislature district maps. It is unknown what to expect in the upcoming legislative session and how the redrawing of the map will impact legislation going forward although Mr. White did offer his views on the topic.

c. Amending CRS § 18-9-313 Geoff Anderson, Greg Notarianni

Mr. Anderson reported that the redaction of real estate records is addressed in Colorado criminal statutes. The Colorado Clerks Association proposes expanding the categories of people eligible for removing personal identifying information in public records. LTAC wants to seek clarity on who these requests are submitted to and to define what is meant by “internet”, among other items. Who, what is the process, how long is information redacted, what happens if information is redacted, and how information can be unredacted are all questions that LTAC wishes to explore and obtain clarification. The primary concern and goal is to maintain the integrity of real estate records and recorded information. LTAC is attending the Clerk’s conference in January 2022 to participate in a panel discussion. LTAC will have a Zoom call with the bill sponsors on November 18, 2021. Ms. Nolan suggested utilizing contacts with clerks once more background information is obtained to address concerns. Mr. White pointed out past similar efforts from years ago related to domestic violence proposed amendments. Mr. White stated that it would be useful to have the Council get involved and review proposed legislation. Ms. Nolan initiated efforts to organize a taskforce, including Mr. Nagy, and Mr. Anderson. Ms. Pasquini suggested adding somebody from the race-based covenants taskforce. Mr. Toft agreed to bring up this issue with the race-based covenants taskforce. Ms. Pasquini suggested providing a speaker to the Clerk and Records

Conference on the topic of the importance of preserving and protecting the integrity of real estate records. The county clerk’s conference is in January, 2022.

d. Executive Orders..... Andy Toft

Mr. Toft provided an update that no new executive orders have been issued that pertains directly to the legal profession but that could change in light of the developing spike in COVID-19 cases and strain on medical resources, including available hospital beds. Colorado courts are going back to virtual means but there is no uniformity as matters are still being set for in-person appearances.

7. In the News

a. New Judicial Protocols for Evictions..... Andy Toft

Mr. Toft reported that certain state legislators were still unsatisfied by the new judicial protocols for evictions. Last Friday there was a meeting regarding the Colorado Supreme Court rules changes and forms. Mr. Toft shared a recent article on this topic. The displeasure seems to relate to the view that there were still insufficient procedural and due process safeguards to protect tenants and their rights and as to whether there was compliance with recent legislative changes. Per Mr. Toft, the Supreme Court Rules Committee agreed to review again the rules and new forms with due haste, but there is no deadline for the review. A hearing may be held for any changes that come out of the review. Comments are to be sent to the Supreme Court Rules Committee. Ms. Angie Schmitz talked about the confusion surrounding the forms and criticism of the actual words placed in the summons from the recently passed statute. Ms. Schmitz agreed to coordinate with the LPO and, if warranted, to discuss with Mr. Andy White. If further action is warranted, a taskforce can be formed for the purpose of gathering and compiling proposed comments and submit for a vote of the Section Council.

REPORTS AND INFORMATIONAL ITEMS

8. Membership and Practice Development..... Adam Aldrich, Zak Kessler, Joan Fritsche

Mr. Adam Aldrich reported that the Committee will start looking to reach out to former members to see if they can be re-engaged and to look at events for next spring.

9. Interprofessional Committee Angie Schmitz, Eric Snyder, Reagan Larkin

Ms. Schmitz relayed that title professionals have concerns about redactions to the public records and over the taxation and regulations of short-term rentals. Similarly, it was reported that CAR expects there to be contested legislative issues over property rights and taxes. Ms. Schmitz referred to the submitted report.

10. Education CLE Committee Angie Schmitz, Marjorie Sant, Steve Nagy

Ms. Schmitz shared that the next task for this committee is to start planning for the spring update. Topic suggestions were solicited.

11. Education/Topical Lunches Committee Jeremy Syz, Marjorie Sant, Cindy Lowery-Graber,
Deanne Stodden

Mr. Jeremy Syz reported that December 2, 2021, is the next luncheon topic presentation at Maggiano’s. This will be an in-person event with a hybrid remote viewing option.

12. Communications Committee.....Zak Kessler, Jeremy Syz, Eric Snyder, Joan Fritsche

Mr. Zak Kessler informed the Council that the newsletter went out last month. Content was requested for the next newsletter this upcoming winter. Ms. Jess Ham was thanked for her editing skills and contributions to the page on the CoBar website.

13. Publications Committee.....Adam Aldrich, Eric Snyder, Reagan Larkin

Mr. Aldrich reminded the Council of the October published article summarizing the changes to landlord tenant law. A slate of articles is lined up but they are always looking for ideas for new articles and a series to keep publications going through out the quarter and the year.

14. Community Service Committee... Cindy Lowery-Graber, Erin Clark, Marjorie Sant, Steve Nagy

Ms. Lowery-Graber reminded everyone that a survey will be coming out after the holiday. The pro bono opportunity was suggested as inclusion in the newsletter.

15. CBA Trust and Estate SectionChad Rounds

Mr. Chad Rounds referred to his submitted memorandum. Mr. Rounds will keep the Council informed regarding a subcommittee for the creation and correction of deeds based on a recent case opinion.

16. CBA Young Lawyers DivisionDiana Mendez, Dani Kaiser

Ms. Dani Kaiser introduced herself. Ms. Kaiser offered to share and discuss any issues and discuss topical lunch presentation items to coordinate with the Young Lawyers Division who are meeting tomorrow. CODACC will also be discussed by the YLD which originated from a YLD initiative.

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

No other issues were presented at this time.

18. Uniform Laws - Controllable Electronic Records Andy Toft

Next meeting is in December.

19. CBA Business Section Liaison Andy Toft

Not a great deal to report at the moment per Mr. Toft.

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

Mr. Anderson announced that the Committee will take a look at the Seller's Property disclosure form, lease assignment and revisiting listing contracts.

21. CAR Liaison Damian Cox

Mr. Damian Cox will be contacting Ms. Nolan to discuss possible bills. Landlord tenant and short-term rentals will be points of emphasis.

22. Board of GovernorsKaty Dunn

Ms. Katy Dunn mentioned there will be a meeting of the Governors in the next few months.

23. CBA Cannabis Law Committee Liaison..... Eric Jaworski

The Committee recently met and discussed equity and cannabis issues, specifically what issues to look into directly relating and impacting cannabis.

24. Access to Justice Liaison Andy Toft

There is an executive director to the Access to Justice program. Mr. Toft was working on keeping the lines of communication open with the new director to prepare for the legislative session.

INACTIVE

25. Colorado Housing Council Cindy Lowery-Graber and Deanne Stodden

26. Multifamily and Affordable Housing Taskforce Erin Clark, Jeremy Syz, Zak Kessler, Eric Snyder, Eric Nesbitt, and Jean Arnold

27. Amendment to Revised Uniform Law on Notarial Acts Taskforce Adam Aldrich, Chuck Calvin, Andy Toft, Joey Lubinski, and Brianna Dowling

28. CCIOA Taskforce Joey Lubinski, Amy Brimah, Suzanne Leff, Chuck Calvin, Joan Fritsche, and Ron Jung

29. Landlord/Tenant and Foreclosure Taskforce Angie Schmitz, Cindy Lowery-Graber, Deanne Stodden, Zak Kessler, Reagan Larkin, and Andy Toft

30. Oil and Gas, Water & Natural Resources Taskforce . Amy Mowry, Marjorie Sant, Steve Nagy, and Robyn Kube

31. Eminent Domain Taskforce Jody Alderman, Steve Nagy, and Ron Jung

32. Removal of Race-Based Restrictive Covenants Taskforce ..Eric Nesbitt, Brianna Dowling, and Erin Clark

33. Special Districts Taskforce Joan Fritsche, and Marjorie L. Sant

34. Land Board Liaison Erin Clark

35. CBA Tax Section Liaisons Tyler Murray, Bobbie Collins

36. CBA Ethics Committee Liaison Kate Strauss

37. Diversity and Inclusion Liaison Eric Nesbitt

38. Regional Membership Liaison Doug Tueller

NEW MATTERS

None.

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Calendar of December 2021 and January 2022 Key Dates

Topical Lunch	December 2, 2021
Holiday Party	December 2, 2021
Start of the 2022 Legislative Session	January 12, 2022
Section Council Meeting	January 18, 2022