

MINUTES

CBA Real Estate Law Section Council

Date: Tuesday, August 16, 2022 – 3:00 p.m.

Colorado Bar Association

1290 Broadway, Ste. 1700

Denver, Colorado 80203

Call to Order Amy Brimah

1. Introduction of New Members, Members, and Guests..... Amy Brimah

The new class of Section members introduced themselves: Lyndsey O’Connell, John Koechel, Michelle DeVoe, Miro Kovacevic

2. Approval of June Minutes..... Amy Brimah

Mr. Ron Jung MOVED for approval of the June meeting minutes.

The motion was seconded by Mr. Adam Aldrich.

The vote was unanimous in favor of approval.

3. Financial Report (\$76,141.58 as of July 31, 2022) Angie Schmitz

Ms. Angie Schmitz reported that the Section has less than last year due to support of other sections and the retreat, but we will have more soon because we are still waiting on section dues to roll in.

Mr. Dan Sweetser reported that the \$5 increase in annual section dues has not taken effect so far, but will be in effect for renewers going forward.

4. Chair’s Report Amy Brimah

a. Committee and Task Force Appointments Amy Brimah

Ms. Amy Brimah reported that task forces may be added as needed during legislative section.

b. Real Estate Symposium Report Amy Brimah

<https://cle.cobar.org/Home-Studies/Product-Info/productcd/RE071422J>

Ms. Brimah reported the following attendance at the Symposium: 308 in person attendees, 58 webinar and home studies purchasers. The Section received positive feedback and exceeded CBA-CLE’s expectations for attendance.

Ms. Bridgett Moore reported that she is going through evaluations still. Ms. Moore and Mr. Jim Meseck are starting to work on next year, and ask that members please send her suggestions. The dates for the 2023 Symposium are: July 13-15.

- c. Amendments to Bylaws Committee Eric Snyder, Amy Brimah

Ms. Brimah reported that Zach Kessler has provided comments and she hopes to get a redline by September meeting to present for voting. Mr. Eric Snyder is collecting comments, and the deadline for submitting comments is August 25, 2022. The bylaws changes are related to the Legislative Policy Officer (LPO) position and requests by CBA.

- d. UCC TaskforceAmy Brimah, Andy Toft

https://www.uniformlaws.org/committees/community-home?attachments=&communitykey=cb5f9e0b-7185-4a33-9e4c-1f79ba560c71&libraryentry=5349fb23-1e16-4a60-ad97-cee1102cb536&pageindex=0&pagesize=12&search=&sort=most_recent&viewtype=card

Mr. Andy Toft reported as follows: The National Uniform Law Commission (ULC) and American Law Institute have been working on changes relating to emergence of new tech—such as bitcoin as collateral, and also NFTs.

It is likely that the Colorado ULC will be reviewing these recommendations and deciding whether to submit amendments to the state legislature. He anticipates a new Article 12 regarding electronic payments, and conforming amendments in other articles to match that.

Mr. Toft agrees to chair this committee

- e. Chair’s Reception, following the meeting, Bar Offices

5. ACTION ITEMS:

CBA/CLE forms generally

Mr. Sweetser reported that CBA is working on updating forms that are available through CBA-CLE. Volunteers are needed to update forms. One incentive for volunteers is that the volunteer can put their name and the name of their firm on the form as a marketing incentive.

Ms. Holly Ryan reported that she is on forms committee for public trustees and will share PT relevant forms.

CBA/CLE forms related to the HOA bill, HB 22-1137

Ms. Suzanne Leff reported that HB 22-1137 requires a detailed notice of delinquency for unit owners who are delinquent on HOA assessments. An association needs to have a complying form to satisfy the requirement, which can allow later action by the HOA if it is not complied with. There is a new state office working on HOA issues, but they have no mandate to create such a form. Mr. Sweetser

recommended that such a form could be approved by the Section, then sent to CBA-CLE to see if they will approve the form. Ms. Leff recommends that the form be free, though it is unclear whether the CBA-CLE forms library allows that. Mr. Snyder asked Ms. Leff whether the comments she has received regarding the form mean the form needs updates or additions. Ms. Leff responded that she believes that the form is correct under the law, though it may need a disclaimer.

Mr. Snyder MOVED that the Section approve submission of the Notice of Delinquency form provided by Ms. Leff, to CBA/CLE as an addition to CBA-CLE real estate forms.

The motion was seconded by Ms. Deanne Stodden

The vote was unanimous in favor.

Voidable Transactions Bill.....Amy Brimah

Mr. Tyler Mounsey reported as follows: Mr. Herrick Lidstone is taking the lead on this bill on voidable transactions. The Business law section is going to be voting on it.

The Colorado Uniform Law Commission was in agreement on supporting the prior bill that was carried by Sen. Gardner in the 2022 legislative session. Sen. Gardner was contacted by the National ULC that the changes in the 2022 Colorado bill were too far from the national uniform law, which caused Sen. Gardner to postpone the bill indefinitely. Mr. Lidstone wants to pursue the same 2022 bill as a non-uniform law. The proposed version is similar to previous versions. Now Sen. Gardner is on board with this version but is term limited so another legislator will have to carry the bill.

There was some discussion on the uniform bill versus the non-uniform bill, as follows:

Mr. Toft stated that the biggest issue with the bill previously has been choice of law. There were also concerns about series entities such as are allowed in Delaware.

Ms. Brimah stated that Colorado's ULC cannot stray far from the national uniform law for it to be considered a uniform law.

Ms. Stodden MOVED that Section support the BLS's efforts to bring this Voidable Transactions Bill to the LPC.

The motion was Seconded by Eric Snyder

The vote was unanimous in favor

6. Legislative..... Tyler Mounsey

Mr. Tyler Mounsey reported that we are losing several longtime Colorado attorney/legislators. A new representative from HD 10 is an attorney and CBA member. He is cultivating relationships with legislators with real estate-adjacent backgrounds.

Judicial discipline is something that is being reviewed by the legislature. Chair Rep. Pete Lee is no longer chair of the house judiciary committee.

7. In the News

- a. Amendment to Surcharge Statute, C.R.S. §5-2-212, AG Opinion Letter Adam Aldrich
Can Credit Card Surcharges be passed along to clients?

Mr. Aldrich reported that changes to rules on passing along credit card surcharges to customers is something to look out for and affects many lawyers. Many lawyers are taking credit card payments and the rule has been they could not pass on surcharges. Ms. Stodden has sent this issue to the Ethics committee to see if there is any ethics issue with attorneys doing this.

REPORTS AND INFORMATIONAL ITEMS

8. CBA Trust and Estate SectionChad Rounds

No report this month.

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

Ms. Stodden reported that she is working on a title standard related to decedents estates, which will take several months. It deals with what happens when there is a deed to an estate, when an estate cannot hold title.

10. Forms Committee Liaison..... Geoff Anderson

11. CAR Liaison Damian Cox

12. CBA Business Section Liaison Andy Toft

Andy Toft reported that there is a Business Law Institute event September 8-9. It is a 2 day CLE through CBA-CLE, including UCC issues.

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

Ms. Joan Fritsche reported that this committee is working on a date to have a happy hour at The Laundry Ms. Brimah stated that early October would be a great time for this.

14. Interprofessional Committee Reagan Larkin, Eric Snyder

Ms. Reagan Larkin reported that the committee will meet on Thursday August 18, 2022.

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

Mr. Steve Nagy announced the Fall Update CLE taking place on 9/22, called the “State of Colorado Real Estate”. Then there is a CCIOA CLE on 11/9 presented by Candace Cavanaugh and Peter Griffiths

There will be a Foreclosure CLE by Holly Ryan, date TBA.

The Committee is looking for topics for spring update or topical lunch

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

Ms. Stodden reported that speakers through January are set
Location of the lunches was discussed. Maggianos was used in the past, but is difficult because a minimum number of attendees is needed to avoid losing money, and not many people are attending in person. The most recent lunch was presented as a hybrid in person and Zoom, and 3 people attended in person, 50 online (there was a technical issue with registration also).
Catering at the CBA office has advantages because the food can be tailored to the number of actual attendees. In the past attendees were interested in alternating between DTC and downtown. But there are still not many in person attendees. The plan is for hybrid presentation to continue for now, with in-person at the CBA offices.

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

Mr. Zak Kessler reported that the newsletter will go out in September. He asked that people forward issues to him for reporting, for example, the appraiser standard change. Articles are welcome.
Ms. Brimah stated that the credit card surcharge issue can be included in the next issue with a link to the AG opinion
Mr. Jim Meseck requested recommendations for speakers/topics for the 2023 symposium

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

Mr. Snyder reported that their first meeting is August 17, 2022, and will be the third Wednesday of the month thereafter. We usually have at least one real estate article in the Colorado Lawyer per month.
Ms. Brimah stated that if you'd like to write an article, reach out to Mr. Snyder.

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

Mr. Jung reported that the committee is recommending a shift of focus to Habitat for Humanity Colorado. The section can get recognition as a donor organization. The Section can ask for support at the upcoming Happy Hour, and include it in marketing for Happy Hour. Requests for donations can also be included in the newsletter. A survey was sent out to find out more about charities that members support. The survey results are in the agenda.
Ms. Jean Arnold reported that Habitat for Humanity is working on a construction project at 52nd and Federal and needs volunteers to contribute work for the next 18 months. Ms. Arnonld will send a link to officers and Ron with more information.

Mr. Nagy suggested that a representative from Habitat could be invited to the Happy Hour to do a quick presentation.

20. Bylaws Task Force..... Eric Snyder, Zak Kessler, Joan Fritsche, Melinda Pasquini, Adam Aldrich, Jim Meseck, Angie Schmitz, Amy Brimah

Mr. Snyder reported that Mr. Kessler has sent comments. Everyone else on the task force should send comments by next Thursday, 8/25.

21. UCC Taskforce.....Zak Kessler, Eric Snyder, Joan Fritsche, Andy Toft, Lyndsey O'Connell

Mr. Toft agreed that he will chair this taskforce.

22. Fairways Taskforce.....Chuck Calvin, Andy Toft, Robin Kube, Eric Snyder, Jean Arnold, Suzanne Leff, Cati Shadakofsky

Ms. Brimah stated that this item will remain on the Agenda until we have legislation moving. Mr. Chuck Calvin wrote the draft legislation

23. CBA Ethics Committee Liaison Kate Strauss

No report.

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

Ms. Stodden reported that replacement liaisons will be named

25. Colorado Housing Council Deanne Stodden

Young Lawyers Division.....vacant

Danielle Kaiser is attending today for YLD.

Ms. Brimah stated that the Section can try to do one joint CLE lunch with YLD.

Diversity and Inclusion Liaison.....vacant

Ms. Brimah reported that Eric Nesbitt will be stepping down, but will stay on until a replacement is found

CBA Cannabis Committee Liaison:vacant

Ms. Brimah reported that we are looking for a new liaison

INACTIVE

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

27. CCIOA Taskforce Ron Jung, Miro Kovacevic, Eric Snyder, Reagan Larkin, Justin Nyberg

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

29. Oil and Gas, Water & Natural Resources TaskforceMarjorie Sant, Steve Nagy, Michelle DeVoe, Amy Mowry

30. Eminent Domain Taskforce Steve Nagy, Miro Kovacevic, Jody Alderman

- 31. **Removal of Race-Based Restrictive Covenants Taskforce** ..Eric Nesbitt, Brianna Dowling, and Erin Clark
- 32. **Special Districts Taskforce**.....Joan Fritsche, Marjorie L. Sant, John Koechel
- 33. **Records Redaction Taskforce** Steve Nagy, Geoff Anderson, Reagan Larkin
- 34. **Board of Governors**Katy Dunn
- 35. **Regional Membership Liaison**Doug Tueller
- 36. **Access to Justice Liaison** Andy Toft

NEW MATTERS

Ms. Holly Ryan reported that the “release without evidence of debt” has gone into effect.

ATTENDANCE ROSTER
Real Estate Law Section Council
August 18, 2022
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			X
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	X		
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	X		
Tyler Murray – Tax Section Liaison			X
Bobbie Collins – Tax Section Liaison			X
Danielle Kaiser – YLD Liaison	X		
Diana Mendez - YLD Liaison			X
Catherine Hance –RE Title Standard Committee		X	
Suzanne Leff – Past Chair RESC	X		
Doug Tueller – Regional Liaison			X
Andrew Toft – Access to Justice Liaison/Business Section	X		
Kate Strauss- Ethics Committee Liaison		X	
Eric Nesbitt- Diversity Liaison/Inclusion Taskforce Chair			X
Eric Jaworski – Cannabis Liaison			X

Brianna Dowling – Inclusion Task Force	X		
Amy Mowry – Oil & Gas/Water/Nat'l Resources	X		
Staff & Guests:			
Jess Ham	X		
Amy Sreenen (CBA)		X	
Amy Larson (CBA)		X	
Bridgett Moore (CLE)	X		
Tyler Mounsey (CBA)	X		
Julie Waggoner, Past Chair RESC	X		
Dan Sweetser, Past Chair RESC	X		
Holly Ryan	X		