

APRIL MINUTES

CBA Real Estate Law Section Council Date: Tuesday, April 21, 2020 – 3:00 p.m.

Colorado Bar Association – Remote Meeting

1290 Broadway, Ste. 1700

Denver, Colorado 80203

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1. **Call to Order 3:01 p.m.**..... Suzanne Leff
 2. **Approval of March Minutes**..... Suzanne Leff

Unanimous approval of March Minutes.
 3. **Financial Report** (\$88,882.29 as of March 31, 2020)Melinda Pasquini
 4. **Chair’s Report/Action Items** Suzanne Leff
 - a. Acknowledgements

Ms. Leff thanked everyone for all their hard work on COVID-19 issues and real estate issues arising from the crisis.
 - b. Damian – Covid-19 Addendum

M. Cox reported on the COVID-19 form approved by the CBA for use with the Colorado approved real estate contracts. This came together quickly as a form to use for delays in closings due to quarantines and COVID-19 delayed closings.
 - c. Chuck – Remote Notary

Mr. Calvin reported on the status of the remote notary Executive Order, Secretary of State Rules and pending remote notary bill.
 - d. Andy Toft – Access to Justice

Mr. Toft reported on preparations and ideas for handling the influx of evictions expected due to COVID-19.
 - e. Amy Brimah – CLE’s

Ms. Brimah reported on upcoming CLE’s the Real Estate section is offering in response to the COVID-19 crisis. Ms. Brimah is taking lead on relevant CLE’s for COVID-19 issues, such as Landlord/Tenant issues.
 - f. Symposium – we are currently working through this and back-up plans for an in-person symposium are being considered.

g. Chris Payne – Webinar and Remote Meetings for entities such as nonprofits, CCIOA, etc. Mr. Payne reported on the remote notary webinar, potential issues with remote meetings for business organizations and pending CCIOA bills. There was some discussion on how business organizations can stay compliant during stay at home orders. The issue is a virtual meeting v. hybrid meeting where some are physically present and other in person via video conference and the associated requirements under the statute. There is some concern that statutes do not permit virtual meetings. Mr. Payne previewed an upcoming article on the issue taking a position that any meeting of a nonprofit corporation requires a hybrid meeting where meeting notice states a physical location where one person is present and then others can dial in virtually. Mr. Toft suggested that the Governor could possibly suspend the in place requirement through order or could go through legislature. There is also some ambiguity in the current law.

h. Scholarship and Aid Suzanne Leff

Ms. Leff reported that there were some extra budgeted scholarship and aid funds used RESC COVID-19 relief efforts.

Ten scholarships were provided on behalf of the RESC to attendees of webinar Chris Payne coordinated on COVID-19 closings and remote notary. Ms. Leff encouraged the RESC to consider additional COVID-19 scholarship and member assistance with some of the funds in the current budget that will not be used to (i.e. the offsite meeting not occurring this year) and the reserve from past years. Some ideas include use of funds for assisting a RESC member in CLE Scholarships, COBALT 6-month leadership training, or other areas of need.

i. **Budget** Jean Arnold

Ms. Arnold led a discussion regarding current expenses, reserves and specific budget items year to date. The discussion centered on using reserves to provide hardship assistance to section members and providing legal assistance programs for those in the community experiencing financial hardships. Ms. Leff asked each committee to send proposals to Ms. Arnold for budgeted items.

REPORTS AND INFORMATIONAL ITEMS

5. **RESC Nominations** Melinda Pasquini

Ms. Pasquini reported on Nominations for Secretary and Four new section council members as of July 1, 2020.

6. **Legislative Update** Andy White

Mr. White reported on the March 14 adjournment of legislature and the State Supreme Court opinion that during this type of crisis the legislature can suspend its 120-day clock. Accordingly, instead of a May 6th adjournment, the State legislature is able to extend the current session.

The targeted date to reconvene is May 17th or 18th. Issues to resolve prior to reconvening is how to ensure proper safety within the building and to members while accommodating participation for those who cannot attend in person. In addition, the legislature is working to determine how long the residual session will last. The legislature will need to prioritize the budget, but do have the authority to call other bills. The budget is facing a very large general fund shortfall for this budget year and the upcoming year of approximately 3 Billion dollars. The budget situation will define all legislative discussions. Ms. Clark asked if the general fund shortfall was going to be funded through funds originally set aside for the affordable housing fund. Mr. White said every fund is in jeopardy to shore up general funds. Mr. White reported there would likely be some federal funds to assist.

Current active bills: HB 1200 – Reauthorization of HOA information office. Sponsors understand they will need to modify current proposal since a new office in DORA will not be funded. Sponsors are still looking at trying to include some sort of a dispute resolution process. Mr. Payne reported on continuing information office and only consider possible ways to address dispute resolution without affecting current CCIOA requirements.

HB 1333 – Sponsor trying to find a new path, but this bill likely will not become a priority in a truncated session. This should still be put in front of LPC for vote so we are ready to opine on it when the time comes.

Arbitration Bill – CBA officially holds an oppose position. The bill passed the Senate prior to the adjournment and is currently in the House. The bill is not expected to proceed since it is so controversial.

Remote Notarization Bill – Mr. Calvin has been working on this bill. This is likely to move forward as COVID-19 has shown necessity of remote notary. CAR and title companies would like this bill to be a priority this session due to COVID-19. CBA currently has remaining privacy concerns. Mr. Calvin reported on the specific concerns of the collection, use and sale of personal information that RESC has consistently objected to. LPC voted to take an amend position on the bill to obtain amendments, principally related to privacy concerns. One of the current questions is what happens when the temporary rule goes away? If this bill is on legislative short list, we may have to eventually determine whether to object to the bill unless privacy protections are included.

Ms. Dowling reported on practical aspects of remote notary. The current temporary process through the executive order is likely more efficient until the remote notary bill can be worked through to deal with electronic promissory notes.

7. **CBA Legislative Policy Committee** Chuck Calvin

Mr. Calvin reported that LPC had an optional meeting as an update to the LPC members. LPC will be meeting during the remaining of the legislative session to take action on bills.

8. **CCIOA Task Force Committee** Chris Payne

See above legislative discussion on HB 1200 and HB 1333

9. **Access to Justice Liaison**Andy Toft

Residential Eviction Proceedings:

Mr. Toft has reached out to various groups such as Colorado legal services and Metro Volunteer Lawyers that Real Estate Section could plug into to assist on pro-bono eviction matters. Colorado Poverty Law Project also assists poor and indigenous with tenant issues. These groups reach out to volunteers and try to match volunteers with those in need. Many of these groups have training opportunities in place for volunteers. Mr. Toft reported on what programs are in place for indigenous and pro-se tenants on FED's. The number of FED's could be running into the tens of thousands.

As an example, Weld County pushed back all FED's until June 1st. Mr. Toft has been tasked with finding process for obtaining volunteers to assist these people in these cases. Need to determine a process for obtaining volunteers and assigning them. We have a tremendous need occurring in the very short term. Ms. Leff requested that the community service committee work on these issues with Mr. Toft.

10. **Community Service/Charitable Committee**Robyn Kube, Jim Meseck, Erin Clark

There was a discussion regarding possible community aid activities in response to COVID-19. Ms. Kube reported that in addition to FED's, there would be a need to assist on forbearance agreements with lenders.

Ms. Leff requested Ms. Kube, Mr. Meseck and Ms. Clark to follow-up with Ms. Ham regarding a possible hotline for these types of legal aid. Ms. Clark will follow-up with Ms. Ham. Presumably, Mr. Toft would post on community for volunteers. Questions to consider include process for collecting volunteers and pairing with those in need. Ms. Ham reported that CBA could build out a form to be submitted that can be linked to webpage. Ms. Arnold brought up whether or not income screening would be required as it would be for some of the other organizations. CBA would likely not require income screening.

11. **Interprofessional Committee** Amy Brimah, Jim Meseck

Ms. Brimah reported on the Interprofessional Committee Meeting that occurred via Zoom. The two main concerns were remote notary and how to implement social distancing.

12. **Education/Topical Lunches Committee** Amy Brimah, Ron Jung, Jeremy Syz

Ms. Brimah reported on May and June luncheons via Zoom. May will be on title and survey. June will be on insurance issues related to COVID-19. Also working on CLE's in May related to COVID-19. Ms. Leff suggested offering May and June luncheons at no cost since minimal cost for putting on Zoom luncheons.

13. **Education/CLE Committee**Amy Mowry, Bryan Schwartz, Angie Schmitz

Ms. Moore reported approximately 30 people online for the remote Spring Update, which is consistent with past in-person attendance.

Ms. Leff acknowledged Geri Jenkins who passed away at the end of March. Geri is a past section chair who will be missed. Mr. Anderson, suggested acknowledgment of Ms. Jenkins at Symposium.

INACTIVE

- 14. Business Law Section Chris Payne
- 15. Colorado Association of Realtors Liaison Damian Cox
- 16. CBA Forms Committee Damian Cox
- 17. CBA Tax Section Tyler Murray
- 18. CBA Young Lawyers Division Liz Deline, Diana Mendez
- 19. CBA Trust and Estate Section Chad Rounds
- 20. Regional Liaison Doug Tueller
- 21. Colorado Housing Council Robin Nolan, Jeremy
- 22. Communications Director – Brianna Dowling
- 23. Communications Committee (RE Section Web Page (COBAR)/Newsletter/Web Discussion Group) Brianna Dowling, Angie Schmitz, Adam Aldrich
- 24. Colorado Lawyer Committee Robin Nolan, Bryan Schwartz, Adam Aldrich
- 25. Membership and Practice Development Committee ... Amy Mowry, Ron Jung, Erin Clark
- 26. Board of Governors Katy Dunn, Dan Sweetser
- 27. CBA Title Standards Catherine Hance and Geoff Anderson
- 28. CBA Ethics Committee Deanne Stodden
- 29. CBA Cannabis Law Committee TBD
- 30. CBA ADR/Mediation Committee Geoff Anderson
- 31. CBA Eminent Domain Committee Jody Alderman

NEW MATTERS

ADJOURN 5:23 P.M.

ATTENDANCE ROSTER
 Real Estate Law Section Council
April 21, 2020
 COLORADO BAR ASSOCIATION

NAME	PRESENT	EXCUSED	ABSENT
Officers:			
Suzanne Leff – Chair	X		
Jean Arnold – Vice Chair	X		
Melinda Pasquini - Secretary	X		
Katy Dunn – Board of Governors Representative	X		
Members:			
Adam Aldrich (2022)	X		
Amy Brimah (2020)	X		
Erin Clark (2022)	X		
Brianna Dowling (2021)	X		
Ron Jung (2021)	X		
Robyn Kube (2020)	X		
Jim Meseck (2021)	X		
Amy Mowry (2020)			
Robin Nolan (2021)	X		
Angela Schmitz (2022)	X		
Bryan Schwartz (2020)	X		
Jeremy Syz (2022)	X		
Committees / Liaisons:			
Chuck Calvin – Legislative Policy Committee Liaison	X		
Chad Rounds – Trusts and Estate Liaison	X		
Damian Cox – Forms Committee Liaison	X		
Deanne Stodden – Ethics Committee Liaison	X		
Geoff Anderson – RE Title Standards Liaison	X		
Jody Alderman – Eminent Domain Committee Liaison			X
Chris Payne – Business Section Liaison	X		
Tyler Murray – Tax Section Liaison		X	
Chris Levkulich – Tax Section Liaison		X	
Liz Deline – YLD Liaison	X	X	
Diana Mendez - YLD Liaison		X	
Catherine Hance –RE Title Standard Committee	X		
Joey Lubinski – Immediate Past Chair RESC	X		
Doug Tueller – Regional Liaison			X
Andrew Toft – Access to Justice Liaison	X		
Staff & Guests:			
Jess Ham	X		
Amy Sreenen (CBA)			X
Amy Larson (CBA)			X
Bridgett Moore(CLE)	X		
Andy White (CBA)	X		
Julie Waggoner, Past Chair RESC	X		
Dan Sweetser, Past Chair RESC			X