

SEPTEMBER MINUTES

CBA Real Estate Law Section Council

Date: Tuesday, September 17, 2019 – 3:00 p.m.

Colorado Bar Association

1290 Broadway, Ste. 1700

Denver, Colorado 80203

Called to Order 3:03 p.m. Suzanne Leff

1. **Introduction of Guests**..... Suzanne Leff

2. **Approval of August Minutes** Suzanne Leff

Ms. Arnold made a motion to approve the August Minutes. Ms. Nolan Seconded. Unanimously Approved.

3. **Financial Report** (\$90,105.22 as of August 31, 2019)Melinda Pasquini

4. **CBA Benefit: Licensed Lawyer**..... Anthony Periera (MVL/Access to Justice)

Mr. Periera reported on Licensed Lawyer, which is the new directory of attorneys that replaces Find a Lawyer and is a CBA member benefit. This is a platform for the public to find attorneys based on various search options such as practice area, location, language spoken, etc. The new platform is being used more frequently and has generated 42,000 cumulative referrals since Feb. 2019.

All licensed Colorado attorneys are available on the platform, but CBA members can log-in and update their profiles to generate more referrals. Ms. Ham distributed materials to RESC on Licensed Lawyer including a guide on setting up a lawyer profile.

5. **Chair’s Report**..... Suzanne Leff

a. CBA Leadership Summit Suzanne Leff

- **Best Practices Playbook**

The Best Practices Playbook was distributed to RESC members with the September Agenda. This version of the Playbook include Community and listserv updates. This is an important resource to all RESC members in relation to committee work. It provides an organizational view of how committees should be working. This is especially important for member and practice development committees and communications. It is a great resource with template letters and other useful resources for committee members. There are also videos on the best practices website.

- **Refocus 20/20**

This CBA strategic plan was also provided to the RESC members with the September Agenda. It is a great resource to understand focus, diversity and inclusion, access to justice, and engaging newer lawyers. This resource also works well in connection with the community service work that the RESC is in the process of expanding.

b. **Legislative Relations** Amy Larson

Mr. Schupbach is no longer the Director of Legislative Relations. Ms. Larson is serving as interim and has much experience since prior to her current position she served as the CBA lobbyist for 13 years. Elizabeth Rosen remains as the contract lobbyist. The entire LPC and associated legislative process is still in place, so business as usual. Ms. Larson reported on the status of replacing Mr. Schupbach and that CBA is exploring opportunities for sections to have input on selection of the next candidate.

There were some questions on the LPC process this year and Ms. Larson indicated the process generally remains the same this year but that LPC is revising guidelines to provide clarity and to refine best practices. Ms. Larson expects a lot of political statement bills, so LPC will be evaluating where CBA can move forward in making meaningful legislative change by providing valuable substantive expertise on legislation. There were questions for Ms. Larson and discussion on CBA's relationship with the Governor's office with regard to legislative matters.

Ms. Larson reported that the Uniform Law Commission would be meeting on September 25, 2019 and LPC that afternoon. Currently there are no RESC items on the LPC agenda.

Ms. Larson thanked Mr. Payne for his involvement in the CCIOA Task Force and stakeholder meetings (see below item no. 7).

December 13th is the tentative date for Bill Track 50 Training. There was a request to delete old 2019 Session bills prior to new session and 2020 bills being uploaded.

c. **Committee Appointments**..... Suzanne Leff

The new committee appointments have been distributed. It was noted that a few committees are more labor intensive, such as the Community Service Committee, whose activities should be expanded in a strategic manner, and the Communications Director role. The Communications Director will be working with other committees to ensure all opportunities are timely communicated out to members on a regular basis. Accordingly, Ms. Leff asked all committees to keep Ms. Dowling informed and, if there is a committee meeting and all seats are not filled (i.e. Housing Council and Interprofessional Committees), extend an invitation to Ms. Dowling to attend.

Ms. Leff encourages regular monthly committee meetings either in person or by phone as an effective way to keep engaged and produce valuable opportunities and information for our members.

ACTION ITEMS

6. **Accept and Ratify Committee Appointments**..... Suzanne Leff

Ms. Arnold made a motion to accept and ratify committee appointments. Ms. Dowling Seconded. Unanimously Approved.

REPORTS AND INFORMATIONAL ITEMS

7. **CCIOA Task Force – Update on DORA public/stakeholder meetings** Christopher Payne

Mr. Payne reported that there are 4 stakeholder meetings held by DORA and that he has attended 2 of them so far. Mr. Payne gave a brief summary of the issues arising out of the extension to the community manager licensing bill. The Governor vetoed the community manger licensing extension with a letter stating that licensing may not be the most effective manner to address common interest communities’ needs. The Governor directed DORA to look at both licensing and then in addition how CCIOA is working. DORA is working through these issues to come up with a report. It is very likely that there will be many CCIOA bills outside of manager licensing during the next legislative session, and RESC should get ahead of some of the potential CCIOA issues prior to session.

Some of the concepts arising related to CCIOA:

- Ambiguous laws that cannot be enforced are bad for all;
- Board governance – boards may have too much power and not enough member input;
- Management companies may be stacking volunteer board members; and
- Concern that the cost of administering communities may increase.

8. **In the News** - SB181 and Short Term Rentals Jean Arnold

There is a patchwork of local ordinances emerging on short term rentals and oil and gas that could greatly impact real estate transactions and litigation in Colorado. Ms. Arnold reported on local regulation with regard to oil and gas and Adams County increasing setbacks under authority from SB 181.

There was also discussion on how many short term rental licenses are being given up in Denver. Denver is trying to promote certain types of short term rentals, only in primary residences, so that short term rentals do not affect affordable housing. Both Lakewood and Golden have this type of primary residence rule. There was discussion on how the Town of Nederland is currently voting on this, and each version of the ordinance is becoming closer to having colorable due process and takings claims.

9. **Acronym Glossary** Ron Jung/Melinda Pasquini

Glossary of Acronyms - An invitation was sent out for everyone to add to the glossary Google Doc as they encounter acronyms. This will be an ongoing resource for all RESC and can be used for future RESC trainings and orientations.

10. **Business Law Section** – Summary of Section Retreat (i) Micro Volunteering; (ii) Diversity & Inclusivity Action Plan Christopher Payne

Mr. Payne reported on the Business Law Section Retreat and some of the models that RESC may be able to benefit from:

- Diversity and Inclusivity: Presenters from within CBA were really good. Ms. Leff supplemented that CBA has well-developed Diversity and Inclusivity goals and that there are opportunities to reach out and get more involved with affinity bar organizations. The CBA’s Diversity and Inclusivity Plan is a good. Affinity Bar Associations include the Sam Cary Bar Association, Colorado Hispanic Bar, Young Lawyers and SABA.
- Micro-Volunteering: This can be very valuable for Bar engagement since it requires less time commitment while broadening the membership and diversity of the organization and attracting and training future leaders. The Business Law Section does this well through its numerous subsections and committees (small company representation, large company representation, bankruptcy, franchise, international transactions, etc.).
- Business Law Section Success: The last legislative session’s amendments to the Corporations Act clarified the duty of care for directors of public companies and provides clear safe harbors for corporations (and by extension LLCs). This does not extend to nonprofit corporations, but the Business Law Section now has a good model that could also apply to nonprofit corporations.

11. **Communications**.....Director – Brianna Dowling

- Communications Committee (RE Section Web Page (COBAR)/Newsletter/ Web Discussion Group)Brianna Dowling, Angie Schmitz, Adam Aldrich
The Communications Committee is currently working on the Fall Newsletter. If anyone has any items to include in newsletter please reach out to Brianna.
- Colorado Lawyer Committee Doug Tueller (Bryan Schwartz, Robin Nolan)
Ms. Nolan reported on the Colorado Lawyer articles for the Affordable Housing series, which runs through February of 2020:
October: Local Affordable Housing Policies, Enforcement and Regulatory Issues in Resort Communities
November: 50 State Analysis
December: Creating Healthy Communities
January: Land Trusts and Tools to Promote Affordable Housing
February: Affordable Housing Financing

Ms. Arnold suggested an article on bonding off mechanic’s liens to include in *The Colorado Lawyer* after the affordable housing series is complete. The author of the article is Dan Wennogle, Vice Chair of the Construction Law Section.

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

Ms. Shephard reported on the following upcoming programs:

- Sept. 27, 2019 - Book program on Community Association Law
- October 17, 2019 - Fall Update with a spotlight on current housing and residential issues

Looking forward:

- 2020 real estate practice series that runs from January - March
- March 21, 2020 Spring Update

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

- September lunch: State of Affordable Housing in Colorado
- Have October and December topical lunches scheduled
- November will be on Mechanic's liens in a joint luncheon with the Construction Law Section.
- Interested in a luncheon on short term rentals
- Contact Ms. Brimah with any ideas

Mr. Jung is interested in working on diversity and inclusion in addition to another Northern Colorado luncheon. Mr. Jung is also thinking about a topical luncheon presentation from Mr. Anderson similar to the Symposium presentation.

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

This is an area to place emphasis on this year and really build out this Committee. Some ideas discussed include:

- Community service opportunities with St. Francis Center (Mr. Lubinski and Ms. Arnold have connections to St. Francis Center and can provide to Committee members);
- Law Day volunteer opportunities in the beginning of May;
- Engagement with affinity bar associations;
- Boulder County free legal clinics are always looking for real estate lawyers (especially landlord/tenant lawyers);
- Affordable housing organizations and associated legal defense funds mostly related to landlord/tenant issues; and
- Micro-volunteering opportunities.

The Committee members will be working this year to coordinate and expand RESC's community service involvement and opportunities offered to members.

15. **Membership and Practice Development Committee**..... Amy Mowry, Ron Jung, Erin Clark

There was a discussion regarding recommended activities for this Committee. It was noted that joint bar activities are a really good idea and that the Committee should also focus on diversity and inclusion. It was noted that there have been requests to have non-alcohol activities and AA meetings at Symposium and that this should be considered by the Committee in planning

member events. Colorado Lawyer’s Assistance Program (COLAP) can assist in ways to facilitate with any perceived stigmas related to such events. Ms. Arnold asked the RESC and the Committee to propose Wellness ideas to include in the Symposium, such as hikes and yoga.

- 16. **CBA Title Standards**Catherine Hance and Geoff Anderson

Ms. Hance reported that the Title Standards Committee is working on updating the note for statutory power of attorney. The revised form of the note is circulating for approval among the Title Standards Committee. Once approved, the Title Standards Committee will present the note to the RESC for approval and then forward to Executive Committee of the CBA for final approval.

- 17. **CBA Trust and Estate Section** Chad Rounds

Sept. 4th was the T&E meeting: Continuous discussion on logistics of discontinuing listserv in favor of Community. At end of this calendar year T&E listserv will be discontinued and Community will be used instead. T&E formed a committee to draft language on beneficiaries for IRA, but there is Federal legislation that could affect this. Elder law section responded to concerns raised at protected proceedings stakeholder meetings by creating 4 subcommittees: protected persons bill of rights, supported decision making, fiduciary oversight and regulation of fiduciaries. The goal is to improve protected proceedings through education and other subcommittee initiatives while providing for uniformity of local procedure. Rules and forms subcommittee is continuing their work on the form of fiduciary deed.

- 18. **Board of Governors**Katy Dunn / Dan Sweetser

Next Board of Governors meeting Dec. 6th – Anything to pass to Board of Governors? Reach out to Ms. Dunn.

INACTIVE

- 19. **CBA Legislative Policy Committee**Chuck Calvin

- 20. **CBA Forms Committee** Damian Cox

- 21. **CBA Cannabis Law Committee** TBD

- 22. **CBA Ethics Committee**Deanne Stodden

- 23. **CBA Tax Section** Tyler Murray, Chris Levkulich

- 24. **Interprofessional Committee** Amy Brimah, Jim Meseck

- 25. **Colorado Housing Council** Robin Nolan, Jeremy Syz

- 26. **Regional Liaison** Doug Tueller

- 27. **Colorado Association of Realtors Liaison** Damian Cox

- 28. **CBA Young Lawyers Division**Liz Deline and Diana Mendez
- 29. **CBA ADR/Mediation Committee**Geoff Anderson
- 30. **CBA Eminent Domain Committee** Jody Alderman

ADJOURNED 4:37 p.m.