

MINUTES

CBA Real Estate Law Section Council
Date: Tuesday, August 21, 2018 – 3:00 p.m.

Colorado Bar Association Offices
1900 Grant Street, 9th Floor
Denver, Colorado

1. **Call to Order** - Joey Lubinski 3:02 p.m.

2. **Introduction of guests** - Joey Lubinski

See **attendance attached***: Erin Clark, Urban Land Conservancy; Julie Baird, First American Exchange 1031 (prospective liaison from LGTB Bar Association); Lindsay Miller, Montgomery Little (writer for the Colorado Lawyer).

3. **Approval of June Minutes** - Joey Lubinski

S. Leff noted a misspelling of McKay. After making the change, R. Jung moved to approve and the motion was seconded. Passed: Minutes approved as corrected.

4. **Financial Report** (\$77,564.64 as of 7/31/2018) – Jean Arnold

S. Leff pointed out that \$10,000 was to be deducted for the Section's sponsorship of the Symposium. The funds have not yet been deducted and A. Sreenen noted that the CBA anticipates the funds will be transferred in August.

5. **Chair's Report** - Joey Lubinski

J. Lubinski reported the following:

a. Symposium Recap

The Symposium went well and the ribbons for first-time attendees and council members were generally well received. A. Sreenen noted the other sections are doing the same thing now.

J. Lubinski also noted that the **school supply drive** for the Action Center went well and congratulated R. Kube and her committee on revitalizing the Community Service / Charitable Committee.

b. New Year Planning

J. Lubinski reported that goals for the current bar year include membership development and community outreach. J. Lubinski noted that all Council members should feel comfortable expressing their positions and asking questions.

c. Diversity Liaisons

Council voted to create new liaison positions with LGBT Bar Association and J. Lubinski again welcomed **Julie Baird** from First American Exchange 1031. She is attending her first meeting of the Council.

The Real Estate Section's core constituency is 400 out of 1400 members of the CBA. J. Lubinski's goal is to increase active membership and to achieve cross over to other sections and get others involved as liaisons, task force members and guests to strengthen the Section and the CBA as a whole.

d. Committee Appointments

List of assignments for committees and liaison positions is **attached***. The list is not exclusive to membership. Anyone who wants to be involved can participate.

ACTION ITEMS

6. **Title Standards Table of Contents – Approval for publication by Thompson Reuters.**
Suzanne Leff

Thompson Reuters (West) is requesting permission to publish the table of contents to the Title Standards. Title Standards is a committee of the RESC, and the Real Estate Section holds the copyright. The Real Estate Section has the copyright on all of the Standards that come out of the committee. A discussion ensued regarding the matter, including noticing that following:

- The committee approved changes to two sections and issued a new title standard since 2017.
- The Standards will change after October: Executive Council has to approve one more and then publish.

Motion by R. Jong: Publish table of contents with link to website location of title standards, subject to follow up with Attorney's Title regarding distribution limitations. Seconded. Passed.

7. Amend Bylaws to correct statements about LPC "liaison." Suzanne Leff

Ms. Leff noted the necessity to revise the Section bylaws to address an error regarding the LPC. The bylaws provide that the Section Chair will appoint a liaison to the LPC, but that is not in fact the case. The CBA Executive Committee and the Board of Governors select members the members to the LPC.

Motion to: delete Section 8.1(f) of the Bylaws. R. Jung. Seconded and passed by voice vote.

REPORTS AND INFORMATIONAL ITEMS

8. Do I Need a Lawyer When I Buy or Sell My Home? Liz Deline

L. Deline prepared an updated draft of the original 2001 document. J. Lubinski requested that Council members provide Ms. Deline with feedback so that an updated version can be posted.

9. Ryan Ranch Case – Potential Legislation Joey Lubinski and Suzanne Leff

J. Lubinski noted that the *Ryan Ranch* Colorado Supreme Court decision has given rise to concern among communities regarding the validity of various annexations into their communities. Under the supreme court decision, strict compliance with the requirements of CCIOA is required and annexation by deed in the manner undertaken in this case did not meet those requirements. J. Schupbach noted that the CBA has been contacted regarding the need to address the outcome of this decision. It is anticipated that the Section will need to continue to monitor this situation, especially in light of the *Perfect Place* case on the standard for CCIOA compliance that was recently granted cert.

10. Affordable Housing Task Force Doug Tueller

The Task Force discussed the merits of a white paper vs. inventory approach surveying the different approaches to affordable housing in Colorado. A discussion ensued regarding the news items from the Spring regarding Denver's affordable housing program and the manner in which other communities address these matters.

11. Remote Notarization/Uniform Laws Update Chuck Calvin (Andy Toft, Joey Lubinski)

J. Schupbach reported that he went to Kentucky for the Uniform Law Commissioners annual meeting. J. Schupbach reported that while many of Colorado's concerns with the uniform remote notarization bill were not addressed, Colorado is seen as a leader on this issue. Mr. Schupbach expects that the uniform law will be introduced in Colorado next session and that familiar battle lines will remain. J. Schupbach noted that the sale of consumer data remains a very important issue with the legislation.

12. Residential Grant Deed Update Joey Lubinski and Damian Cox

J. Lubinski reported that a meeting was held with LTAC at Land Title's office to discuss LTAC's proposal for a "new" deed form to be used in Residential transactions. It appears that the new deed form will not proceed, but that the deed statutes may need to be revised more generally. A task force consisting of D. Cox, D. Tueller, R. Nolan, B. Dowling, R. Jung, D. Sweetser, and C. Calvin was appointed to discuss this matter further to advise the

Council on revisions to the deed statutes and participation in helping draft new LTAC legislation.

13. Update on FinCEN cash buyer program (Article): Chuck Calvin

Mr. Calvin reported on continued developments on FinCEN's geographic targeting orders pertaining to the disclosure of beneficial entity ownership in cash transactions. Based on a Miami Herald article and information received from Kevin Shepherd from the ABA, it appears that the beneficial ownership disclosures may become a nationwide requirement for cash transactions of a certain size. C. Calvin noted that he has been involved in a recent transaction where a form regarding beneficial ownership was required by the title company.

14. Legislative Update Jeremy Schupbach

J. Schupbach estimated that there are about 25-30 bills anticipated that will be of particular concern to the CBA, with about half of those bills being uniform acts. For Real Estate, J. Schupbach anticipates that affordable housing and Airbnb will be hot topics.

15. Board of Governors Katy Dunn

December 7, 2018 next meeting.

16. Education/Topical Lunches Committee Melinda Pasquini (Amy Brimah, Ron Jung)

September: Jay Pickard and Jean Arnold – Partition

October: Michelle DeVoe - Asbestos

November: Cybercrime

17. Interprofessional Committee Robyn Kube (Jed Sonnenshein, Robin Nolan)

There was no report on the last meeting.

18. Communications Directors: Melinda Pasquini and Doug Tueller

Communications Committee (RE Section Web Page (Cobar)/Newsletter/Web Discussion Group)

Melinda Pasquini (Amy Brimah, Brianna Dowling)

Newsletter – J. Lubinski noted that a new edition of the newsletter is anticipated to be ready by the end of the month.

J. Lubinski also noted that the CBA website is changing, including changes to the way that the Section listserv will be accessed. The new website is hosted by Higher Logic.

19. Education/CLE Committee Damian Cox (Amy Mowry, Jim Meseck)
- The Fall Update will be held October 12 and is entitled *The Changing Landscape*. A. Mowry put together the oil and gas speakers, G. Anderson will present, and S. Leff and D. Stodden will present on the ethics. The brochure should be available shortly and the program has been approved for 6 general and 1 ethics credits.
20. Colorado Housing Council Melinda Pasquini (Jed Sonnenshein)
- There was no report as the Colorado Housing Council did not meet over the summer.
21. Colorado Lawyer Committee Doug Tueller (Bryan Schwartz, Robin Nolan)
- The interaction between the committee and the substantive law editor for Real Estate, Chris Bryan, was discussed. There is one article in process for publication.
22. Community Service/Charitable Committee Robyn Kube (Bryan Schwartz Brianna Dowling)
- No
23. Membership and Practice Development Committee Robyn Kube (Amy Mowry, Ron Jung)
- Ms. Kube reported that the membership committee will convene to discuss opportunities.
24. CBA Young Lawyers Division Liz Deline
- No meeting.
25. CBA Cannabis Law Committee Jed Sonnenshein
- Mr. Sonnenshein reported that the committee has not met during the summer months.
26. CBA Ethics Committee Deanne Stodden
- Ms. Stodden reported that at the July meeting, the Ethics Committee discussed adding some examples to Opinion 130 and the possibility of rewriting Opinion 104. Ms. Stodden also discussed a recent Colorado Supreme Court decision involving an attorney who was suspended for one year and one day as a result of engaging in a lease transaction with a client (in a manner that violated Rules 1.8 and 4.2).
27. CBA Forms Committee Damian Cox
- Mr. Cox reported that the recently-approved revisions to the CREC-approved forms should be published in the near future.
28. CBA Legislative Policy Committee Andy Toft and Jean Arnold

No report as the committee will not begin meeting again until the legislative session commences..

29. CBA Tax Section Arthur Griffin

No report.

30. CBA Title Standards Geoff Anderson (for Catherine Hance)

G. Anderson reported that title standards is evaluating title standards as they apply to the homestead exception and whether language should be revised in the standards to account for same sex marriage. This may also be an issue for legislation at the General Assembly, however J. Schupbach reported that such legislation is probably dependent in part on the November election.

31. CBA Trust and Estate Section David Kirch

No report.

32. CBA ADR/Mediation Committee Geoff Anderson

G. Anderson received another draft of the ADR publication. No changes were made in response to RESC comments. The document is 60 pages long. The committee took out evaluative mediation and the focus of the publication will be on “family law” practice.

33. CBA Business Section Chris Payne

No report.

34. CBA Eminent Domain Committee Jody Alderman

No report.

NEW MATTERS

ADJOURN:

5:21 p.m.

ATTENDANCE ROSTER
Real Estate Law Section Council
August 21, 2018
COLORADO BAR ASSOCIATION
1900 Grant Street, 9th Floor
Denver, Colorado 80203
3:00 P.M.

NAME	PRESENT	EXCUSED	ABSENT
Officers:			
Joey Lubinski – Chair	X		
Suzanne Leff – Vice Chair	X		
Jean Arnold – Secretary	X		
Katy Dunn – Board of Governors Representative	X		
Members:			
Amy Brimah (2020)	X		
Damian Cox (2019)	X		
Brianna Dowling (2021)	X		
Ron Jung (2021)	X		
Robyn Kube (2019)	X		
Jim Meseck (2021)	X		
Amy Mowry (2020)	X		
Robin Nolan (2021)	X		
Melinda Pasquini (2019)	X		
Bryan Schwartz (2020)	X		
Jed Sonnenshein (2020)	X		
Doug Tueller (2019)	X		
Committees / Liaisons:			
Andy Toft – Legislative Policy Committee Liaison	X		
David Kirch – 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	
Arthur Griffin – Tax Section Liaison			X
Elizabeth Deline – YLD Liaison	X		
Catherine Hance – RE Title Standard Committee		X	
Chuck Calvin – Immediate Past Chair	X		
Staff & Guests:			
Amy Sreenen (CBA)	X		

Jeremy Schupbach (CBA)	X		
Bridgett Shephard (CLE)	X		
Erin Clark, Urban Land Conservancy	X		
Cyndi Stovall (Affordable Housing)			X
Julie Baird (LGBTQ Liaison), First Am. Exchange 1031	X		
Lindsay Miller (CO Lawyer writer), Montgomery Little	X		
Dan Sweetser, Past Chair RESC	X		

**CBA Real Estate Section Council
Committee, Liaison & Taskforce Appointments
2018-2019**

Annual Symposium Committee – Suzanne Leff (Section Vice Chair)

Budget Committee – **Suzanne Leff** (Section Vice Chair), Chuck Calvin (Immediate Past Chair),
Joey Lubinski (Section Chair), Jean Arnold (Section Secretary)

CBA Business Law Section Liaison – Chris Payne

CBA Ethics Committee Liaison – Deanne Stodden

CBA Legislative Policy Committee Liaison – Jean Arnold (Section Secretary)

CBA Legislative Policy Committee Member – Andy Toft

CBA Taxation Law Section Liaison (appointed by the Tax Section) – Arthur Griffin

CBA Trust and Estate Section Liaison (appointed by the T&E Section) – David Kirch

CBA Trust and Estate Section Liaison (to the T&E Section) – TBD

CBA Young Lawyers Division Liaison (appointed by the YLD) – Liz Deline

Colorado Housing Council Liaison – Melinda Pasquini, Jed Sonnenshein

Cannabis Law Committee Liaison – Jed Sonnenshein

Community Service and Charitable Committee – **Robyn Kube**, Bryan Schwartz, Brianna Dowling

Communications Directors – **Melinda Pasquini** and **Doug Tueller**

Communications Committee (RE Section Web Page (Cobar)/Newsletter/Web Discussion Group) –
Melinda Pasquini, Amy Brimah, Brianna Dowling

Publications Committee (Colo. Lawyer) – Doug Tueller, Bryan Schwartz, Robin Nolan

CREC Forms Committee Liaison – Damian Cox

Education Committee (CLE) – **Damian Cox**, Amy Mowry, Jim Meseck

Education Committee (Topical Lunch) – **Amy Brimah**, Melinda Pasquini, Ron Jung

Eminent Domain Committee Liaison – Jody Alderman

Interprofessional Committee Liaison – Robyn Kube, Jed Sonnenshein, Robin Nolan

Membership and Practice Development Committee – **Robyn Kube**, Amy Mowry, Ron Jung

Title Standards Committee Liaison – Geoff Anderson (pro tem)

Title Standards Committee Member – Catherine Hance

* Committee chairs designated by bold text

Taskforces

Amendment to Revised Uniform Law on Notarial Acts – Chuck Calvin, Andy Toft, Joey Lubinski

Affordable Housing – Doug Tueller, Geoff Anderson, Damian Cox, Cyndi Stovall

Residential Grant Deed – Chuck Calvin, Joey Lubinski, Damian Cox, Doug Tueller, Robyn Kube, Brianna Dowling, Ron Jung, Dan Sweetzer,