

## MINUTES

**CBA Real Estate Law Section Council**  
**Date: Tuesday, January 17, 2017 – 3:00 p.m.**

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

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1. Call to Order

Ms. Nies called the meeting to order at 3:05 p.m.

2. Introduction of Guests

Ms. Ray, Ms. Sreenan and Mr. Schupbach were present.

3. Approval of November Minutes

The proposed minutes of the November meeting were approved.

4. Financial Report

Ms. Decker reported the current balance in the Real Estate Section's account is \$59,100.34.

**ACTION ITEMS:** None.

**REPORTS AND INFORMATIONAL ITEMS:**

5. 2017 Legislation

- Potential Construction Defect Legislation

Ms. Nies reported that SB045 was introduced, and Ms. Arnold agreed to review it. Mr. Schupbach reported that this is a bipartisan bill and there is a meeting scheduled with Representative Wist at the end of the month to discuss it.

- Potential Torrens Legislation

Mr. Calvin reported that the Torrens System is rarely used. The Clerks Association is proposing that the Torrens System be phased out without damaging the marketability of titles now in the System, with the goal of moving the titles into the traditional recording system. Legislation is being drafted.

- Potential Landlord/Tenant Legislation

Ms. Nies reported that there is no proposed legislation yet. The proposal is to extend the notice to quit time period from 7 to 28 days, which is in line with several other states.

6. 2017 Uniform Acts for Colorado Task Forces

- Uniform Commercial Receiverships Act

Mr. Calvin and Mr. Lubinski met with the drafters of the Uniform Commercial Receiverships Act regarding proposed changes. The Colorado Uniform Law Commissioners expressed the opinion that if provisions dealing with automatic stays and the right to reject executory contracts are eliminated, then it will not be regarded as a uniform act. If it is not regarded as a uniform act, it may be difficult to obtain sponsorship for the bill.

- Authorize Notarial Acts for Individuals Outside US

Ms. Dunn reported that there is no proposed legislation at this time. Mr. Schupbach reported that there may be two bills. The Secretary of State is proposing a bill that will include clean-up revisions with no major changes. The second bill may include provisions permitting remote notarization.

- Revised Uniform Residential Landlord Tenant Act

Ms. Arnold reported that it is unlikely this legislation will go forward this session.

7. Task Force Reports:

- Sunset Review Recommendations Task Force

Ms. Nies reported that she discussed the process for the sunset review with Ms. Waters and Mr. Krohn. The process involves inclusion of the recommendations into proposed legislation. Ms. Nies proposed working with CAR on recommendation 2, which recommends clarifying the definition of “standard” form.

- Mortgage Loan Origination Statute Task Force

Ms. Nies reported that the proposed legislation would amend Section 12-61-904(1)(b)(II), C.R.S., to include an exemption for loans between family members so that parents, grandparents, aunts, uncles, cousins and children/siblings would not be subject to criminal liability for providing residential mortgage loans to one another.

- Deed Form Task Force

Mr. Tueller reported that he will forward the finalized deed language to Mr. Cox for consideration by the Forms Committee for review in 2018 and implementation in 2019. A motion was made, seconded and approved to appoint an editorial committee to approve changes, as recommended by the editorial committee.

- Vacation Task Force

Mr. Schupach reported that a House sponsor is confirmed. Once the draft bill is finalized, it will be sent to Council members for review and approval. If it is approved, it will be forwarded to other stakeholders and then to the Legislative Policy Committee for consideration.

8. Legislative Policy Committee  
No report was given.
9. Sunset Review of Conservation Easement Program  
Ms. Nies discussed statutory evaluation criteria for the sunset review and asked for recommendations for conservation easement attorneys who could participate on a conservation easement program task force. Bill Silberstein, Melinda Beck and Jim Walker were recommended by Council members.
10. CBA Ethics Committee Liaison  
Ms. Stodden reported that the Committee is working on producing more short articles for the *Colorado Lawyer*. It also recently approved several advisory opinions regarding trust and estate ethics. The Committee made a proposal to the Supreme Court to amend Rule 2.1, comment (2). The Supreme Court adopted the proposed amendment and it is effective immediately.
11. Publications/Newsletter, Website, Discussion Group  
Mr. Lubinski reported that the next draft of the newsletter will be out in two weeks.
12. Education/CLE Committee  
Ms. Ray reported the Spring Update will be held on March 24, 2017, and will include presentations on construction financing, brownfields developments and ethics.
13. Education/Topical Lunches Committee  
Ms. Leff reported that the next topical luncheon is scheduled for February 2, 2017, at the DTC Maggiano's with a presentation on commercial real estate title endorsements.
14. Interprofessional Committee  
Ms. Leff reported that Mr. Schupbach attended the Committee meeting to discuss legislation. CAR is expected to introduce legislation regarding squatters and identity theft. LTAC may bring legislation proposing predictable recording fees in 2018. CMLA does not have anything proactive on the agenda, but is watching the reverse mortgage legislation dealing with repayment when homes become uninhabitable due to wildfires. Two other programs are sun-setting: (1) community association management and (2) mortgage loan originator.
15. Publications/Colorado Lawyer Committee  
Mr. Clark reported that the friendly foreclosure article is in process.
16. CBA Trust and Estate Section Liaison  
Mr. Kirsch reported that Ms. Wendell was the representative on a deed form committee of the Trust and Estate Section, but she is no longer involved. He requested that someone from the Real Estate Section take her place. Once the deed form draft is final, the Council will be requested to approve it. Upon Council approval, it will be sent to the

Rules and Forms Committee and the Title Standards Committee. The next green book will not be prepared until December 2018.

17. Title Standards Committee

Ms. Waggener reported that a new standard will be provided for review next month.

18. Young Lawyers Division Liaison

No report was given.

19. CBA Tax Section Liaison

Mr. Murray reported that the case law update was given last week and that the Section is ready to begin reviewing legislation.

20. Eminent Domain Committee

No report was given.

21. Forms Sub-Committee

Mr. Anderson discussed forms for wire transfers, contract amend/extends with termination language, and seller's property disclosure clarifying seller's obligations. Drafting a form contract for personal property is on hold until an opinion from the Office of Attorney Regulation is rendered. If any new forms are approved, they will be effective January 1, 2018.

**INACTIVE ITEMS:**

22. CBA Business Law Section Liaison

23. Cannabis Law Committee

24. Board of Governors

25. Community Service/Charitable Committee

26. Membership and Practice Development Committee

27. Colorado Housing Council

**ADJOURN**

The meeting was adjourned at 4:35 p.m.