

MINUTES FROM

CBA Real Estate Law Section Council
Date: Tuesday, March 19, 2019 – 3:00 p.m.

Colorado Bar Association
1290 Broadway, Ste. 1700
Denver, Colorado 80203

Call to Order - Informal discussion of non-action items began at 3:10 PM. Joey Lubinski called the meeting to order at 3:15 PM when quorum was present.

1. **Introduction of Guests**

Jim Meseck introduced his guest, Lindsay Mott-O’Connell, who has applied to serve on the Real Estate Section Council.

2. **Approval of February Minutes** – Chuck Calvin noted uncertainty about the intended language at the Section Council/YLD happy hour section 4(a) of the draft minutes and requested clarification. Robin Nolan moved, and Jim Meseck seconded, to approve the minutes with a correction to section 4(a).

3. **Financial Report** – Suzanne Leff gave the financial report. As of February 28, 2019, the Real Estate Section account balance \$81,623.95 as of February 28, 2019.

4. **Chair’s Report**

a. RESC/YLD Happy Hour Status. Joey Lubinski spoke about holding a joint happy hour with the Natural Resources Section and YLD. Discussions with YLD also include a possible Fall RESC meeting held in conjunction with the YLD meeting, which would require shifting the RESC meeting to the first Wednesday of the month to allow the meeting to occur prior to the YLD meeting.

b. Spring Offsite Meeting. The Spring meeting will occur on the normal date and time in April—Tuesday, April 16, 2019—but will take place offsite on the University of Denver campus in the SIE Forum Room 1020.

c. Council Nominations. Council nominations were due on Friday, March 15, 2019. More applicants were received than positions available, with a total of 11 applicants for consideration by the Nominating Committee.

d. Real Estate Course Reception. Last Tuesday, the Real Estate Practice Course held its final class, and Section Council members attended a post-class reception with the course participants. Thanks to those who attended.

e. RESC Section Membership. The section has gone from 1634 in 2017 to 1668 in February 2019. The Section membership has grown by two percent (2%). The CBA is

actually only one of two voluntarily bar associations in the country with a growing membership and stands in contrast to other bars, including the ABA.

f. Spring/Summer Networking and Membership Events. Officers and committee members are separately working on other networking events with diversity bar associations. A possible June event will partner with the Colorado Hispanic Bar Association (“CHBA”) to discuss landlord-tenant issues. This event may include non-lawyer business partners as part of the discussion and reception.

ACTION ITEMS

5. Barrister’s Ball or CLC Luncheon Table

Joey Lubinski introduced a request from Dan Sweetser for the Real Estate Section to sponsor a couple of upcoming events, including the Barrister’s Ball (benefiting the Metro Volunteer Lawyers) and Colorado Lawyers Committee (“CLC”) Luncheon. Mr. Lubinski opened the topic up for discussion. A question was raised about who would get to go to an event sponsored by the Real Estate Section. Another question focused on what benefit the Section may derive from sponsoring either event. Marketing materials for the Barrister’s Ball could identify the Real Estate Section. Melinda Pasquini offered that the Section could purchase a half table and ask for students to sit at the remainder of the table. Mr. Lubinski announced that the CLC will recognize Dan Sweetser as a sustaining volunteer at this year’s luncheon. Council members and liaisons provided input on what CLC does.

Chris Payne offered three ways to look at this request. First, it may fall under the charitable contributions committee’s work. Second, this request comes from a former Section Council member who is deservedly receiving an award. The question then becomes whether this expenditure falls within the purpose of our Section and whether this is the best way to honor Dan. Brianna Dowling offered that the CLC contribution would seem more logical on a one-time basis than on an ongoing basis. Robyn Kube suggested that the Section consider making a donation without tying it to a specific table. Ms. Pasquini suggested that a CLC contribution could pair well with a newsletter article about the work of Section Council attorneys with CLC. At the very least, the newsletter should include an announcement about Dan Sweetser’s involvement and the value of CLC for Colorado real estate attorneys.

Mr. Lubinski proposed a delay on the vote, with the intent to vote by email over the next week or so. Chuck Calvin offered an option of purchasing a table and then donating seats to law students or other attorneys who may want to attend the event. Amy Mowry supported the approach of discussing over email with additional time to consider the options. Mr. Lubinski recognized that delaying a decision gives the impression of no decision to support these events. Ron Jung and Ms. Kube expressed support for making a decision today. Mr. Jung moved to contribute fifty percent of the ticket price for a half table at the CLC Luncheon, with an effort to attribute the table to the Section’s support of Dan Sweetser, but, if five other people do not contribute to attend, then the money would go to CLC. The motion passed with five in favor and three opposed. The Section will contribute \$500

toward a table. Those interested in sitting at the table should email Mr. Lubinski by Thursday afternoon.

REPORTS AND INFORMATIONAL ITEMS

6. Legislative Update

Mr. Lubinski provided an update on SB 19-181, which is the oil and gas bill moving quickly through the legislative process. The CBA LPC decided to support the bill with amendments, as proposed by the RESC (thanks in large part to Ms. Mowry's close review and contributions). Mr. Schupbach reported that the CBA took a revised version of the Section's memo to the sponsors. The proposals are not getting a lot of traction, though the sponsors are checking with stakeholders to gauge support.

House Bill 19-1170 on the warranty of habitability continues to work its way through the legislative process. The sponsors have worked with the Section to address several concerns raised last year on a similar bill. While not all amendments appear of record yet, Council expects an additional revision to address notice and landlord dispute of a tenant complaint.

The tenant cure period bill (HB19-1118) now includes an exclusion for commercial properties. The original proposal for a 14-day cure period got pared down to 10 days.

House Bill 19-1212, which would rejuvenate the community association manager licensing program, will go to committee hearing tomorrow. As introduced, the bill does not include a complaint or investigation process, but both those amendments are expected to get introduced in the committee hearing tomorrow.

Chuck Calvin reported on the status of the remote notary bill (HB19-1167) and the most recent proposed amendments, one of which would remove the privacy protections that the bill attempts to incorporate.

An arbitration bill remains in the background and expected yet this session. Mr. Schupbach reported that conversations around this bill do not include any substantive language for review and discussion.

The deed bill (HB19-1098) was signed into law. The Real Estate Commission Forms Committee is working on the necessary form contract amendments to conform to the new deed bill.

Senate Bill 19-017, related to eminent domain proceedings, passed with amendments supported by the Section and is on the way to the Governor's desk.

7. Colorado Housing Council

Suzanne Leff reported on the February Housing Council meeting that included guest speakers Rep. Tracy Kraft-Tharp and Rep. Brianna Titone, who discussed their legislative priorities and fielded questions from attendees.

8. **Affordable Housing Task Force**

Doug Tueller reported on the status of articles for *The Colorado Lawyer* focused on affordable housing issues.

9. **Education/Topical Lunches Committee**

The March luncheon, headlined by Chris Payne, drew 96 in-person attendees. This luncheon was co-sponsored by YLD, focused on basic real estate issues, and pitched the Real Estate Course for next year.

The Section will offer two luncheons in April, including the regular monthly luncheon at Maggiano's on Economic Opportunity Zones and another one on April 9th at Bar Louie in Westminster featuring three judges and a discussion of how to present evidence.

10. **Interprofessional Committee**

Ms. Kube reported that the last Interprofessional Committee meeting involved a lot of conversation about legislation, with the deed bill topping the list. The Colorado Association of Realtors ("CAR") presented a report on affordable housing approaches in the 50 states. Colorado Mortgage Lenders Association ("CMLA") announced that more affordable housing bills are expected yet this session. On the deed bill, discussions focused on education efforts needed to ensure people understand the interaction of the new deed form with the standard real estate contract and title policies. Ms. Kube suggested that the Section should consider a roadshow to present information to people on this issue. Damian Cox speculated that CAR and other organizations will provide education to their members. Ms. Nolan raised the issue of "who drafts the deed?" and the need to incorporate into the contract a statement about the impact of or authority for any variance from the broker/title company drafting the deed. Mr. Jung and Mr. Payne both noted that DORA distributes articles and offers classes that reach tens of thousands of licensed brokers and could serve as a way for the Section to communicate with broker.

11. **Communications**

The committee is working on the next newsletter.

12. **Education/CLE Committee**

Bridgett Shephard reported that the Spring Update CLE is scheduled for this Thursday. Current enrollment is at 40 attendees.

13. **Colorado Lawyer Committee**

See earlier report concerning the affordable housing series in *The Colorado Lawyer*.

14. **Community Service/Charitable Committee**

The committee did not have a report.

15. **Membership and Practice Development Committee**

The committee did not have a report.

16. **CBA Tax Section**

Tyler Murray reported that the Tax Section is looking at changing the multi-section luncheons, such as the legislative update, for the 2020 calendar year to avoid the deficit resulting from those programs.

17. **CBA Trust and Estate Section**

Chad Rounds reported that the Trust and Estate Section met on March 6th. A representative from Colorado Pledge for Diversity spoke to the Section about increasing diversity in the practice of law. The Pledge pairs law students with attorneys and is seeking firms to participate. Mr. Rounds noted that the trust and estate statutes reference the acknowledgment statute discussed in RESC and in interest in ensuring alignment of the acknowledgment requirements. Information was shared with Trust and Estate Section about the need to bring forward a corrective amendment to the deed statute to include “successors.”

18. **CBA Ethics Committee**

Deanne Stodden pointed Council members to the new rule related to flat fees and the standard form provided for flat fee engagements. The engagement letter should outline the milestones for when attorneys earn the flat fee and include language that tells clients what happens if termination occurs after reaching one milestone but not the next. This all stems from a disciplinary case where the attorney refunded part of the money collected under a flat fee without a pre-existing agreement on what milestones applied. Please see the form.

19. **CBA Young Lawyers Division**

As mentioned earlier in the meeting, Real Estate Section and YLD are hoping to hold a joint meeting and a happy hour at a later date. Liz Deline is working on a possible joint meeting before July.

20. **CBA Business Section**

Chris Payne reported that Business Law Section may have a solution for the fiscal note that attached to the proposed revisions to the Colorado Corporation Act. Mr. Schupbach explained that BLS pulled the new form requirements from the bill to avoid the fiscal note.

21. **CBA Legislative Policy Committee**

No additional updates.

22. **CBA Cannabis Law Committee**

Mr. Schupbach reported on House Bill 19-1090, which will align public financing with the laws concerning cannabis businesses. This would bring Colorado up to par with other states, such as California. The original version of the bill involved new language related to business entities that confused the issue of what kind of businesses the bill would regulate.

23. **CBA Forms Committee**

Mr. Cox noted that the new form listing contracts will not go into effect until January 1, 2020.

24. **CBA Title Standards**

Title Standards Committee did not meet last week due to the bombcyclone.

ADJOURN

The meeting adjourned at 4:54 PM.

ATTENDANCE ROSTER
Real Estate Law Section Council
March 19, 2019
COLORADO BAR ASSOCIATION

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:			
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		
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		
Julie Waggoner, Past Chair RESC	X		
Lindsay Mott-O’Connell Guest of Jim Meseck	X		
Dan Sweetser, Past Chair RESC			X

