

MINUTES

CBA Real Estate Law Section Council Tuesday, June 19, 2018

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

Attendance: See attached attendance sheet.

1. Call to Order

Mr. Lubinski called the meeting to order at 3:08 PM.

2. Welcome and Introduction of Guests

Mr. Lubinski welcomed new Council members whose terms begin July 1, 2018, Brianna Dowling, Ron Jung, Jim Meseck, and Robin Nolan, as well as guests Kevin McKay and Julie Waggener, and Bridgett Shephard from CBA-CLE.

3. Approval of May Minutes

Ms. Arnold moved to approve the May minutes, and Mr. M. Payne seconded the motion. Council unanimously approved the May minutes.

4. Financial Report (\$63,471.94 as of 5/31/2018)

Ms. Leff reported a balance of \$63,471.94 as of May 31, 2018. Ms. Sreenen stated that the balance reflects the April meeting dinner but not the alcohol costs. The \$10,000 approved as Symposium support will get paid this month, before the end of the fiscal year on June 30th.

5. Chair's Report

a. Special Thanks and Recognitions

Mr. Lubinski expressed appreciation for Ms. Alderman, Ms. Arnold, Ms. Leff, Mr. M. Payne, and Mr. Starritt, who have committed the past three (and four) years of service to Council. Mr. Starritt reported that his term with the Electronic Recording Technology Board expires this year. His seat is open for appointment. He has found the work rewarding and successful, with funded projects coming in under budget. Mr. Lubinski recognized Ms. Arnold as the incoming Secretary of Council and expressed a special thanks to Ms. Leff, who stepped into the Secretary role this past year, as well as Ms. Alderman, who served an extra year to fill Ms. Leff's last year of her regular three-year term.

b. CU Real Estate Center

Mr. Lubinski reported that the officers received follow-up communication from Curtis Sears at the Real Estate Center. Mr. Sears is working on a summary of opportunities for Section members to engage with students at the Center.

c. Chair Committee Preference Sheet and Committee Summaries

Mr. Lubinski noted that committee preference sheets were distributed with the meeting agenda materials. He requested that Council members complete the sheets by the middle of July and submit them to him. In addition to the committee preferences, marking the legislative interest areas on the sheet will help Ms. Arnold in her role during the 2019 legislative session.

ACTION ITEMS

Title Standard 8.3.2

Ms. Hance reported on proposed revisions to Title Standard 8.3.2. This standard concerns vacated alleys. Issues primarily arise in Denver. The changes make the standard more specific in the context of conveyances of portions of alleys. Other changes conform the standard to statutory changes. Mr. Anderson added that one reason for this proposal arises from the assemblages of lots, where lots are platted, sold off to several people, and then later reassembled under common ownership. If the alley is tacked onto the lot but not referenced in the deed, the alley may stay titled to the original owner and not transfer to the purchaser in pre-2005 transactions. Mr. Cox moved and Mr. M. Payne seconded approval of the standard. Council unanimously approved the standard.

Affinity Bar Liaisons to/from RESC

Mr. Lubinski reminded Council of prior conversations about adding liaisons to and/or from affinity bars. The Section Bylaws require Council approval to move forward with adding liaisons. The officers have not yet reached out to the affinity bars but would like approval to do so to enable liaison participation when Council reconvenes in August. The affinity bars include the Hispanic, Asian-Pacific, Sam Cary, LGBTQ, CWBA and others as listed on the CBA website. Mr. Lubinski requested authorization to reach out to affinity bars to gauge interest and, ideally, identify liaisons from the affinity bar organizations to attend Section Council meetings. Ms. Arnold moved to authorize Mr. Lubinski to reach out to affinity bars to see about interest in sending liaisons to Council. Mr. M. Payne seconded the motion. The motion passed unanimously.

REPORTS AND INFORMATIONAL ITEMS

6. 2018 Real Estate Symposium

Mr. Lubinski announced the next big event of Section, which is the Real Estate Symposium in Vail. Attendees will receive special ribbons to designate new members or first time participants as well as speakers, Council members, and past Chairs of the Section, with the idea of encouraging interaction, especially between Council members and those wearing ribbons. The ribbons and Council engagement of participants supports member outreach. Ms. Mowry asked about student pricing for the Symposium and whether Council had decided on special pricing at this CBA-CLE event. Mr. Lubinski explained that Council did not make any decision on the Symposium pricing for students. Mr. C. Payne noted that the Business Law Section (BLS) does not offer special pricing for the large-scale CBA-CLE events. Ms. Deline said that the law schools sometimes offer special funding to law students. Ms. Shephard indicated that CBA-CLE will happily engage in further conversations on this topic. She mentioned that the Symposium includes a YLD rate, and five individuals have already signed up at the YLD rate. Mr. C. Payne commended the Council on its school drive donation efforts this year and encouraged more notice

and reminders to members. Council discussed ways to recognize donors, with stickers, ribbons, or otherwise. Mr. C. Payne suggested a donation jar on site to accommodate those who may have forgotten supplies. Ms. Waggener highlighted the Symposium's dual purposes as an educational event and social/networking opportunity.

7. Ongoing Legislative Efforts

Mr. Schupbach reported that Council members should watch the Uniform Guardianship, Conservatorship, and Other Protective Arrangements Act (UGCOPAA) this summer. Mr. Schupbach plans to follow up with the public trustees' lobbyist about potential legislation to address substantive and procedural matters in the foreclosure laws. Mr. Schupbach indicated that he will not know specifics about uniform laws until the fall, after the Uniform Laws Commission meets. However, a uniform remote notary act will move forward with the Commission this year. Landlord-tenant and receivership laws will likely stay on the agenda with the opportunity for the Bar to provide input. On the remote notary topic, Mr. Schupbach reported that he, Mr. Calvin, Ms. Letty Maxwell, and Ms. Amy Redfern participated in a phone call, along with Uniform Law Commissioners, where the participants recognized that some issues exist with the proposed remote notary bill that other states did not identify before the bill came before the Colorado legislature. This conversation resulted in plans for Mr. Schupbach and an elder law representative to go to Louisville, Kentucky, to read the remote notary act line by line with the Commissioners.

Mr. Lubinski reported that Land Title Association of Colorado plans to introduce a bill that would effectively create a residential land deed for Colorado. Mr. Cox noted that this proposed deed essentially looks like a special warranty deed by a different name. Mr. Calvin stated that the proposed grant deed from LTAC would not eliminate the need for specific exceptions. He suspects that the proposal may include some statutory exceptions.

Mr. Calvin reported that Council successfully convinced the statewide assessor group that conversions of entities should follow the same path as entity mergers. This success leaves open the issue of individual name changes and the need to get away from the use of quitclaim deeds for this situation. Mr. Calvin received a 30 minute window to talk with assessors about this issue at the assessors' convention in Snowmass earlier in June. He perceived favorable responses from the hundred or so people in the room, which indicates some interest in pursuing draft legislation. Opposition seemed limited but strident. Mr. Calvin said that we can expect follow up from the assessors.

Mr. C. Payne suggested that Council add the Colorado Corporations and Association Act to the items for summer review. BLS plans to vote on the proposed language tomorrow, with the intent to then circulate to other sections through Mr. Schupbach. Mr. C. Payne and Mr. Schwartz have attended some meetings on this issue. Though it does not appear to directly impact real estate law, the proposed changes warrant additional review by sections beyond BLS.

8. Affordable Housing Task Force

Mr. Cox reported on the task force's meeting prior to the Council meeting and stated that Mr. Anderson best summarized this situation as having no perfect solution. Mr. Cox said the task force will seek to help set up a program with best practices. Ms. Arnold suggested talking with Ms. Pasquini directly about financing in this type of program. Ms. Pasquini indicated that these programs can substantially affect lenders. Ms. Pasquini agreed to lend her expertise to the task force in the coming months.

9. Short-Term Rental Ordinances

Ms. Arnold pointed Council members to the article on short-term rentals included with the agenda. She spoke about the local ordinances' impact on owners' use of their properties. In Golden, the owner must live on site when using a property as a short-term rental property. This particularly impacts investors who bought properties before the ordinances took effect. Ms. Arnold noted the additional layer of covenants in common interest communities that prohibit short-term rentals. Mr. C. Payne suggested adding this topic to the affordable housing task force's agenda because of the adverse impact on housing stock when investors use the properties for short-term rental uses. Mr. Lubinski concurred with this suggestion.

10. Education/Topical Lunches Committee

Ms. Alderman reported that the committee will not offer a program in July. She expressed hope that Ms. Brimah would lead efforts on programming for the Fall. She has heard that the June program was well-received. Mr. Lubinski expressed appreciation for Ms. Alderman's leadership of this committee over the past four years.

11. Interprofessional Committee

Mr. Cox reported that community association manager licensing, affordable housing, arbitration, and remote notarization remain hot topics at Interprofessional Committee.

12. Communications Committee

Mr. Starritt happily reported that he has distributed the draft early Summer newsletter for Council review. He would like to see this newsletter distributed before the end of June. He would also like to leave room for another newsletter in early July to address Symposium topics.

13. Education/CLE Committee

Ms. Arnold reported that the committee met by phone and that Ms. Shephard has greatly assisted with speaker contacts and confirmations for the Fall Update CLE. Mr. Anderson will present on historical perspectives, followed by 90 minutes of oil and gas, afternoon topics, and an ethics credit at the end of the day with Ms. Stodden and Ms. Leff. The Fall Update will take place on October 12, 2018. Ms. Mowry will serve as moderator for the day.

14. Colorado Housing Council

Mr. Sonnenshein directed Council to the PowerPoint presentation from the May meeting on affordable housing in Denver. Denver's affordable housing program plan includes a two percent tax increase on recreational marijuana sales, with other funding sources that may depend on intergovernmental agreements.

15. *Colorado Lawyer* Committee

Ms. Arnold met with Dan Wennogle about his article submission. She expects to send the article to officers for review yet this Summer. She and Mr. Wennogle talked about potential for combining topical luncheons with the construction law section to discuss the issues in his article. One other article remains subject to revision.

16. Community Service/Charitable Committee

Ms. Kube said the committee is getting ready for collection of school supplies at the Symposium.

17. Membership and Practice Development Committee

No report at this time.

18. CBA ADR/Mediation Committee

Mr. Anderson reported that the drafting committee continues to revise the ADR guidebook. He will submit the revised document once available.

19. CBA Business Section

Mr. C. Payne provided background on the ABA opinion practices standards that were included as a blackline draft with the meeting materials. Mr. C. Payne will provide more details on the timeline for approval of this draft as he knows more. A second component to this project involves core principles. BLS has not approved the core principles based on a principle that a summary of a summary dilutes the understanding and intent and does not warrant approval.

20. CBA Cannabis Law Committee

Mr. Sonnenshein commended Ms. Dunn on the notes from the last committee meeting and urged Council to review the information in those notes as included with the meeting materials.

21. CBA Ethics Committee

Ms. Stodden reported that the June Ethics Committee meeting was canceled.

22. CBA Forms Committee

Mr. Cox reported that the committee sent Section 13 revisions to Mr. Rich Krohn and is awaiting response. Direction given to the committee from the Commission was for the form contract to make the special warranty deed the default deed, continue to offer options for deed forms, and require express inclusion of exceptions under a general warranty deed. Some conversations about the scrivener fiction may still need to happen. The Commission soundly rejected the proposed changes related to affordable housing at this time. The Commission expressed willingness to review affordable housing related revisions according to its timelines and procedures.

23. CBA Legislative Policy Committee

Mr. Toft reported that the legislature remains out of session and, as a result, there is nothing new to report.

24. CBA Tax Section

Mr. Griffin reported that his office is waiting for guidance from DC on the new tax laws. If anyone would like additional information about real estate tax issues, or a follow-up summary article on the topic, please let Mr. Griffin know. Mr. C. Payne inserted a plug for the BLS symposium in September, which will focus on the tax code updates and entity choices.

25. Young Lawyers Division

Ms. Deline reported that the YLD's focus remains on getting new board members oriented. The most recent substantive issue relates to promotion of the self-assessment tool from the Colorado Supreme Court's Office of Attorney Regulations. A Manitou Incline hike is scheduled for June 30th. YLD is also encouraging young lawyers to submit reviews of legal publications.

ADJOURN

The meeting was adjourned at 4:35 PM.

ATTENDANCE ROSTER
Real Estate Law Section Council
June 19, 2018
COLORADO BAR ASSOCIATION
1900 Grant Street, 9th Floor
Denver, Colorado 80203
3:00 P.M.

NAME	PRESENT	EXCUSED	ABSENT
Officers:			
Chuck Calvin – Chair	X		
Joey Lubinski – Vice Chair	X		
Suzanne Leff – Secretary	X		
Katy Dunn – Board of Governors Representative		X	
Members:			
Jody Alderman (2018)	X		
Jean Arnold (2018)	X		
Amy Brimah (2020)		X	
Damian Cox (2019)	X		
Robyn Kube (2019)	X		
Amy Mowry (2020)	X		
Melinda Pasquini (2019)	X		
Mike Payne (2018)	X		
Bryan Schwartz (2020)	X		
Jed Sonnenshein (2020)	X		
Sam Starritt (2018)	X		
Doug Tueller (2019)		X	
Committees / Liaisons:			
Andy Toft – Legislative Policy Committee Liaison	X		
David Kirch – Trusts and Estate Liaison		X	
Geoff Anderson – Forms Committee Liaison	X		
Deanne Stodden – Ethics Committee Liaison	X		
Julia Waggener – 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		
Nicole Nies – Immediate Past Chair		X	
Staff & Guests:			
Amy Sreenen (CBA)	X		
Jeremy Schupbach (CBA)	X		
Heidi Ray (CLE)	X		
Bridgett Shephard (CLE)	X		
Robin Nolan	X		
Ron Jung	X		

Jim Meseck	X		
Brianna Dowling	X		
Kevin McKay	X		