

AUGUST 2021 MINUTES

CBA Real Estate Law Section Council Date: Tuesday, August 17th, 2021 – 3:00 p.m.

Colorado Bar Association – In-Person and Remote Meeting

1290 Broadway, Ste. 1700

Denver, Colorado 80203

Call to Order – 3:04 Melinda Pasquini

1. Introduction of Guests

Ms. Pasquini welcomed the guests including Ron Jung and Michael McCormick,

2. Approval of June Minutes..... Jim Meseck

Approved unanimously.

3. Financial Report (\$112,025.79 as of July 31, 2021)..... Jim Meseck

ACTION ITEMS:

4. Replacement Council Member Vote Melinda Pasquini

Ms. Pasquini reported that newly appointed Council member Jennifer Blum resigned for personal reasons and that Ms. Blum’s resignation was accepted. Ms. Blum’s term was to run from July 1, 2021 to June 30, 2024. Ms. Blum submitted her written resignation to the Secretary. Mr. Meseck received the resignation. The resignation, per Section 4.4 of the Bylaws, was effective upon receipt by the Secretary. Ms. Pasquini informed Ms. Blum that Ms. Blum is welcome to and encouraged to re-apply for Council membership in the future and that her resignation will not be adversely considered. Ms. Pasquini expressed sympathy and wished Ms. Blum and her family the best of luck and health.

Per Section 4.4 of the Bylaws, “In the event of a vacancy created by operation of this Section 4.4 or any other circumstance, the remaining members of the Council shall elect, by majority vote at a meeting in accordance with Section 10.3, a member of the Real Estate Section to fill such vacancy and to serve for the unexpired term of the office or Council position vacated.”

Deanne Stodden, a member in good standing of the Real Estate Section of the CBA, was nominated by Mr. Adam Aldrich and seconded by Ms. Reagan Larkin. Ms. Stodden accepted the nomination. The remaining members of the Council voted and unanimously elected Ms. Stodden to fill the vacancy created by the resignation of Ms. Blum and to serve for the remainder of the unexpired term of Ms. Blum. Ms. Pasquini announced the election results. Ms. Stodden accepted the results of the election. Ms. Stodden’s term will run from August 17, 2021 to June 30, 2023. Ms. Pasquini congratulated Ms. Stodden.

5. Title Standards Approval..... Melinda Pasquini/Cyndi Stovall

Ms. Stodden moved for approval and Mr. Aldrich seconded that the table of contents be accepted and approved once prepared and finalized by the Title Standards Committee. Discussion was had about concerns over approving the table of contents without first viewing. The motion was withdrawn by Ms. Stodden. A new motion was made by Mr. Steve Nagy and seconded by Ms. Stodden to authorize changes to the table of contents so as to conform with the current printed version and to authorize the title standards with the corrected and updated table of contents to be published electronically. The motion passed.

6. Chair’s Report..... Melinda Pasquini

a. Welcome New Council Members

Ms. Pasquini welcomed new Council members Ms. Joan Fritsche, Ms. Larkin, Mr. Nagy, and Ms. Stodden to the Council. Ms. Pasquini also welcomed the returning members to the start of a new year on the Council. Ms. Pasquini encouraged the new members to become engaged. She welcomed their participation and involvement.

b. Symposium Update

Ms. Pasquini introduced the topic and recalled the chaotic set up of the Symposium location, that some of the Symposium was partially recorded, some parts partially live and with some members attending in person. Ms. Pasquini singled out for recognition and thanked Ms. Jess Ham for her contributions to make the event pleasant.

Ms. Kendra Yates is hoping to do the 2022 Symposium in person but there will be an online option available to members. Ms. Yates says the reviews were favorable and credited Ms. Pasquini. Virtual attendance is a reality that is here to stay. Planning has already begun for the 2022 Real Estate Symposium. Virtual evaluations are hard to obtain. Ms. Yates credited this problem to Zoom fatigue. There were 11 evaluations turned in. An incentives and means to encouraging feedback are being studied. Ms. Yates complimented Ms. Pasquini for her closing remarks and Ms. Ham for her camera skills and creativity. Turnout was consistent.

1. Salvation Army Fundraiser Jim Meseck

Mr. Meseck reported that the Real Estate Section has raised approximately \$1,718 or 34% of its goal of \$5,000. Due to the commitment to the quality programs of the Salvation Army and the people those programs serve, the Section along with the CBA have agreed to keep the fundraiser going and roll through the upcoming holiday season. All Section members will continue to receive updates and encouragement to contribute in order to achieve the goal and obtain the CBA’s match. Ron Jung explained the history of the program and encouraged involvement. Ms. Amy Brimah suggested reaching out to POETS to encourage those members to participate. Ms. Pasquini encouraged the new Community Service Committee members to build off this work. Mr. Jung requested further publication to make members aware of this opportunity to give.

2. Attendance/Participation

Ms. Pasquini reported on the attendance at the 2021 Annual Real Estate Symposium and the speakers.

3. FeedbackKendra Yates

Ms. Pasquini and Ms. Kendra Yates reported on the feedback and survey information received from the Symposium attendees. Survey results and written feedback were distributed to the Section Council members. Responses and feedback on the Symposium were discussed. Everyone liked the opportunity to participate in person. Diversity, Inclusiveness and Equity (“DIE”) was a theme and cutting edge in giving CLE credit on this topic. However, credit cannot be obtained yet. Ms. Pasquini explained her views on DIE courses as a chance to include and becoming aware of issues facing other people. We can’t be great lawyers unless we are thinking about the issues facing other attorneys and members of the society as a whole.

c. Theme for this year 2021-2022

Ms. Pasquini announced this year’s theme will be reconnecting. Ms. Pasquini is not concerned about how people connect; the important thing is that members connect. Per Ms. Pasquini, members are able to connect through meeting attendance, Section Council assignments, getting involved in legislative matters, and simply showing up for happy hours. Ms. Pasquini thanked Ms. Jean Arnold for her leadership during a challenging year due to COVID-19. Ms. Pasquini attributed her own theme of reconnecting due to the challenges of the pandemic and the need to recover and be engaged again in in-person activities.

d. Happy Hour

Ms. Pasquini announced a Section Council sponsored happy hour at Stoney’s immediately following the adjournment of this meeting. All are welcomed to attend.

e. Committee Appointments (Section 7.3 Bylaws) – [see below for appointments]

Ms. Pasquini went over the list of appointments. Ms. Pasquini thanked prior committee chairs and members for the work they did. Ms. Pasquini explained that chairs were appointed, and officers were assigned to each committee. Committees are to meet regularly every month in-person, by phone or Zoom and report back. Ms. Pasquini suggested that officers be invited to the respective committee meetings before the next Council meeting. Ms. Pasquini pointed out that there is much work to be done by the committees. Ms. Pasquini requested that monthly reports be submitted by each committee.

f. Liaison Positions

Ms. Pasquini went over the list of appointments of liaisons. Ms. Pasquini thanked prior liaisons. Ms. Nolan will be going to the LPC meeting or Mr. Meseck. Ms. Pasquini announced that Ms. Erin Clark has joined the State Land Board Meeting. Ms. Clark explained that the Land Board is though the Department of Natural Resource and is a giant fund for generating revenue

to support public schools. The board consists of 5 people. Ms. Clark is the citizen at large member. The Land Board covers all aspects of land use and stewardship across the state, including managing state leases. The position requires a broad perspective. Ms. Pasquini congratulated Ms. Clark on the appointment and the important work she is doing.

g. Initial Legislative Taskforce Positions

Ms. Pasquini went over the list of appointments. Ms. Pasquini thanked prior taskforces, individual taskforce chairs, and taskforce members. Ms. Pasquini explained that taskforces will take on added new important roles as we prepare for the legislative season and the number of bills effecting real estate law in Colorado to avoid chaos and urgent time demands.

Ms. Pasquini’s plan is to be proactive, rather than reactive. The appointments are initial and subject to change. Volunteers are welcome to join existing groups or to form new groups. Ms. Pasquini explained how instrumental and important the chair of each taskforce will be. Ms. Pasquini reminded everyone that taskforce members are not to leave it to the chair to draft memos. Mr. Toft explained how critical the memos are to the LPC. Concise explanations are sought in the memos. The Real Estate Section stands out to the LPC for being prepared and thorough. Taskforces will be involved and working with Mr. Andy White. The Secretary role will be internal facing, focusing on communication and organization. Mr. Andy Toft has been appointed to the LPC from the Business Section but does not have a reporting function.

1. Fairways at Buffalo Run Dismissed Jim Meseck

Mr. Meseck reported that the Colorado Supreme Court issued an Order dismissing the civil action. Accordingly, the Court of Appeals’ opinion sets forth the law in Colorado on reforming declarations. The most expedient way for the Section Council’s concerns to be addressed is to propose legislation.

7. **LPO Report** –Robin Nolan/Andy White/Jim Meseck

a. Role of LPO

Ms. Robin Nolan introduced herself as the new LPO officer. Ms. Nolan shared her personal vision for the LPO role and identified some of the challenges, issues and her goals that she has identified. Ms. Nolan discussed being both proactive and reactive. Ms. Nolan talked about the concept of how action will take place in order for the process to be more manageable. Ms. Nolan wants to utilize the expertise of members and identifying those members. Ms. Nolan welcomed people to join taskforces and to view them as think tanks.

b. Survey of Real Estate Section Membership

Ms. Nolan introduced the idea of a survey of the Real Estate Section’s member to determine their interest level, areas of expertise and availability as resources in developing legislative policy. Ms. Ham prepared a sample Survey Monkey survey modified from the Business Section Council’s recent survey sent to their members.

c. Possible legislation

1. Fairways at Buffalo Run

Ms. Nolan explained the stated goal of addressing the Colorado Court of Appeal’s opinion as to the best means and practice of protecting the chain of title and reforming declarations, deeds and recorded instruments by proposing possible legislation. Ms. Nolan explained the case history. The taskforce is charged with proposing legislation to protect the chain of title. Ms. Pasquini has appointed a taskforce to be chaired by Mr. Chuck Calvin. Mr. White provided a timetable by which he would like to see such legislation drafted and a legislative sponsor identified.

2. Restrictive Covenants

Ms. Nolan addressed restrictive covenants and how a taskforce may effectively deal with this issue. Race based restrictive covenants, although voided by statute, are still a concern. The taskforce is charged with finding ways to better eliminate race based restrictive covenants.

Proposing legislation and drafting language for a proposed bill needs to be done now in order to line up support within the legislature, including finding a sponsor for the bill.

d. Property Ownership Confidentiality

Ms. Nolan explained her recent contact with a stakeholder who was looking for an attorney to draft possible legislation that would protect the privacy of property holders through the creation of a trust. Policy guidance is being sought to help with a program for protecting people who are the victims of abuse to preserve their privacy.

1. Trust and Estate liaison to attend Aug. 23 meeting

Ms. Nolan informed the Section Council of a meeting later this month to address the issue of privacy protections for recorded real estate information. Ms. Nolan requested a volunteer to attend and report back. The Trust and Estate liaison was requested to attend the meeting. The meeting is August 23, 2021 at 1 PM. Mr. White informed the Council that options are being looked at including \$1,000 in seed money contributed toward development. Mr. Nagy volunteered to attend the meeting for the purpose of reporting back on this topic.

REPORTS AND INFORMATIONAL ITEMS

8. CBA Trust and Estate Section Chad Rounds

Mr. Rounds referred to his submitted written report.

9. Membership and Practice Development CommitteeAmy Brimah

Ms. Brimah reported on the number of nonrenewed memberships based on a list prepared by Ms. Ham. There may be delays associated with the renewals of members belonging to larger firms. There will be an effort to reach out to firms and individuals to encourage members to renew their membership. Ms. Pasquini explained about using budget resources for networking

events, including at law schools. The Section Council’s budget is based on membership dues. Ms. Pasquini’s analysis is that revenue is about the same. Ms. Pasquini’s goal is to grow membership. Ms. Pasquini reminded everyone to renew their membership. Ms. Brimah will share the list of non-renewals with the Membership Committee. Membership is down by only 43 members.

10. Land Board LiaisonErin Clark

There was nothing new to report at this time.

11. CBA Young Lawyers Division Liz Williams/Diana Mendez

12. Education/Topical Lunches Committee..... Cynthia Lowery-Gaber

Ms. Cynthia Lowery-Gaber reported on the CLE lunch presentations, including Jordan May’s presentation on August 5, 2021, with 96 attendees by Zoom. Presentations will likely be by Zoom the rest of the year. The September presentation is title form changes by Peter Griffiths and Brianna Dowling. The presentations will remain online and free for the foreseeable time. A report was submitted.

13. CBA Title Standards..... Catherine Hance and Geoff Anderson

There was nothing new to report at this time.

14. CBA Business Section LiaisonAndy Toft

The Business Section just had their Symposium and started their legislative efforts, including fixing stylistic errors in the corporation statutes. The Symposium was entirely virtual.

15. Forms Committee Liaison –Geoff Anderson

There was nothing new to report at this time.

16. CAR Liaison Damian Cox

There was nothing new to report at this time.

17. CBA Tax Section Liaisons..... Tyler Murray and Bobbie Collins

There was nothing new to report at this time.

18. Board of Governors -Katy Dunn

Ms. Dunn explained that the Board of Governors meets twice a year in June and December. The Board of Governors is the governing body of the CBA and consists of 100 members.

19. CBA Cannabis Law Committee Liaison.....Eric Jaworski

There was nothing new to report at this time.

20. CBA Ethics Committee Liaison..... Kate Strauss

There was nothing new to report at this time.

21. **Diversity and Inclusion Liaison** Eric Nesbitt

There was nothing new to report at this time.

22. **Regional Membership Liaison** Doug Tueller

There was nothing new to report at this time.

23. **Access to Justice Liaison** Andy Toft

Mr. Toft reported that he is working on eviction bills and actively involved. The rules of the Supreme Court are being changed to approve form changes but there was a break down in communication for the purpose of getting legislation to conform with the changed rules. There is a bottle neck with rent relief programs. Mr. Toft is working with others on selecting program all-stars to recognize people who are active in the community. Mr. Toft suggest that we think about next year nominating deserving candidates.

INACTIVE

- 24. **Colorado Housing Council**
- 25. **Affordable Housing Taskforce**
- 26. **Communications**
- 27. **Education/CLE Committee**
- 28. **Colorado Lawyer Committee**
- 29. **Community Service/Charitable Committee**
- 30. **Interprofessional Committee**

NEW MATTERS

None.

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