

MINUTES

CBA Real Estate Law Section Council
Date: Tuesday, February 20, 2024 – 3:00 p.m.

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

Call to Order

Mr. Jim Meseck called the meeting to order at 3:01 p.m.

1. **Introductions**

2. **Approval of January Minutes**

- a. Ms. Lyndsey O’Connell made a motion to approve the minutes, which was seconded by Ms. Lisa Connolly. It was unanimously approved.

3. **Financial Report** (\$44,048.42 as of January 31, 2024)

- a. Ms. Connolly asked why we were slightly below budget on our cash balance? Mr. Zakary Kessler explained that this is due to the unbudgeted contributions we made to CODAC and the Greater Colorado Law Student Experience.

4. **Chair’s Report**Jim Meseck

- a. Happy Hour after the meeting — here in the Bar Association Offices. All are welcome!
- b. April Meeting – Wee Casa, Lyons, CO - April 25-27, 2024 (<https://weecasa.com/>)
 - i. Mr. Meseck noted a reminder as to the meeting occurring offsite and to look for an invitation to RSVP from Ms. Jess Ham in the coming weeks.
- c. DU Conference – Private Property and the Police Power, April 4-5, 2024
 - i. Mr. Meseck encouraged all to attend due to the timely subject matter and current legislation pending in the real estate area.
- d. 2024 Willis Carpenter Award Committee (Amy Brimah, Zak Kessler, Steve Nagy)
 - i. Mr. Meseck appointed Ms. Amy Brimah (Chair), Mr. Kessler, and Mr. Steve Nagy to the Committee. Ms. Brimah stated that Ms. Ham will send out the nomination announcement to the whole section. The committee will then review the nominations select a recipient.

- e. Section Council membership for next year.
 - i. Mr. Meseck indicated that we will work with Ms. Ham on the section council announcement for nominations for the 2024 class. Mr. Kessler will chair the application committee with Ms. O’Connell and Ms. Connolly.

5. Action Items:

- a. Symposium Event – Geeks Who Drink Trivia..... Angie Schmitz
 - i. Ms. Angie Schmitz explained that speaker invitations will go out soon. With respect to the Geeks Who Drink event, this will be paid by attendees to the Symposium as an add on during registration. Ms. Susie McNulty has arranged the hotel block, but CBA-CLE will not release it ahead of the formal marketing of the Symposium. The marketing should be released in the next month. Mr. Meseck encouraged all Section Council members to make every effort to attend. The dates are July 11th through the 14th. Mr. Meseck thanked Ms. Schmitz for selecting Killers of the Flower Moon as the book club selection for Symposium.
- b. Title Standards Committee – Proposed New Members.....Jim Meseck
 - i. Mr. Meseck, at the request of the Title Standards Committee, appointed the following qualified attorneys to the Committee:
 - 1. Erin Nave
 - 2. Nate Osborne
 - 3. Andy Toft
 - a. Mr. Andy Toft commented that he is grateful for the opportunity to serve and is looking forward to helping.
 - 4. Chris Payne
- c. Title Standard Comment Revision – Title Standard 3.2.1.....Catherine Hance
 - i. Ms. Catherine Hance indicated that as a result of our request to review Standard 3.2.1, the Committee is proposing only referencing the statute dealing with the facts in question. Mr. Geoff Anderson indicated that this comment revision made the most sense because there are too many factual possibilities to make a revision to the standard in a way that fits all possible fact patterns. Ms. Reagan Larkin made a motion to approve the revision, which was seconded by Ms. Joan Fritsche. The motion passed unanimously.
- d. Title Standard Revision – Title Standards 5.1.1 and 5.1.2.....Catherine Hance

- i. Ms. Hance explained that the root of this revision to Standards 5.1.1 and 5.1.2 are to clarify that certain documentation is not necessary for representative conveyances if the representative capacity is not fully explained on the face of the conveyance document. They added the comment to also further reference the statutes providing for curative document recording options for these types of conveyances. The second standard revision is to clarify that there was not any statutory or common law authority for the prior existing title standard (5.1.2). This is similar to how the Committee has addressed past standards that do not clearly have authority to support these prior standards. Mr. Anderson indicated that this problem is a difficult one because they had to spend a tremendous amount of time seeking appropriate authority for the prior standard. Ms. Carolin Topelson asked whether there is a date for the prior comment on the standard. Mr. Anderson said that they will revise to have the standard's comment (5.1.2) placeholder put into the draft recommendation. Mr. Meseck indicated that we are only the first phase of approval. The Colorado Bar Association Executive Committee will have to approve it after us. Ms. Deanne Stodden made a motion to approve the revision, which was seconded by Ms. O'Connell. The motion passed unanimously.

6. Legislative Matters

- i. General Update
 1. Mr. Tyler Mounsey thanked everyone for all the work on more than 10 bills reviewed already. ROFR and ROFO finished in committee today. There are 73 days left in the session, so we are seeing more of our legislation sooner in the session than last year. Ms. Ham put a link in the meeting chat to our official positions on legislation for members to monitor them. HB24-1098 just passed out of committee today and should be approved in the House. It is expected this bill will face challenges in the Senate. On HB24-1057, Rep. Woodrow directed his displeasure with the CBA at Mr. Mounsey about the Section Council's oppose position. Mr. Mounsey thinks we should be proud of how transparent and diligent we are in our approach to legislation. Mr. Mounsey thinks on the ROFR and ROFO bill we are likely to get several of the suggested amendments to that bill. Ms. Topelson indicated that Mr. Woodrow appears to be personally benefiting from all this legislation he is sponsoring. Ms. Robin Nolan stated that this situation with Rep. Woodrow is different than the reaction that we receive regarding CBA positions when compared to the reactions from all the legislators that came to the legislative event hosted by the Bar Association. Mr. Anderson explained that our process is designed to avoid taking sides on any bill other than to try and improve real estate law or at least avoid creating problems in the functioning of real estate law in the state. Mr. Meseck highlighted that sticking to our process and procedures are key to staying above the political fray with respect to legislation. This Section will not be intimidated into deviating from that

process. Mr. Meseck also thanked Mr. Mounsey and Ms. Amber Valdez for all their efforts in supporting the Section and the Bar Association.

ii. LPC Positions and Memo Discussion

1. Mr. Meseck reminded the group that diligent and timely review of legislation is key to our effectiveness. Ms. Holly Ryan asked whether we will still get amendments to HB24-1175, which remains uncertain. Ms. Stodden clarified that HB24-1099 was pulled for the time being. Mr. Mounsey had no update on when it might get back on the legislative calendar. Mr. Meseck explained that we are falling behind in our reviews and that he is open to suggestions for us to spread the workload in terms of these reviews to help speed up our process and avoid burn out on the Landlord/Tenant Taskforce, CCIOA, and Affordable Housing Committee. We will be sending more legislation to other members of the Section Council. Mr. Meseck also reminded everyone that we should feel free to comment on and discuss legislation when memos come out. Ms. Brimah also noted that the discussion and additional eyes on the actual legislation before voting only helps to improve our process. Ms. Brimah explained that it is also a critical piece in making the presenters at LPC more prepared for the inevitable questions that they receive. Mr. Mounsey reminded everyone that the memo length limit is only with respect to the bill analysis, not amendments. Mr. Mounsey indicated that we do have a sponsor now for the *Fairways at Buffalo Run* fix legislation.

7. **In the News**.....Jim Meseck

- a. Mr. Meseck explained that these are important reference points for Section Council Members in terms of what areas of real estate law are currently in question.
 - i. Kaiser v. Aurora Urban Renewal Authority
 - ii. Colorado Church Sues Town Over Right to Use RVs to Shelter Homeless: <https://www.cbsnews.com/colorado/news/colorado-church-sues-town-right-use-rvs-shelter-homeless/#:~:text=to%20use%20RVs,to,-shelter%20homeless>
 - iii. Cnty. Of Jefferson v. Stickle
 - iv. Inside a Plan to Save Homeowners Hundres of Dollars Closing their Mortgages - WSJ
 - v. Guest opinion: This short-term rental bill will destroy Colorado tourism and mountain town economies: <https://www.summitdaily.com/opinion/guest-opinion-this-short-term-rental-bill-will-destroy-colorado-tourism-and-mountain-town-economies/>
 - vi. Richard Grigsby, Cheryl Grigsby, and Rocky Mountain Memories, Inc. v Estes Park

REPORTS AND INFORMATIONAL ITEMS

- 8. Interprofessional Committee** *Reagan Larkin, Lyndsey O'Connell*
- a. Ms. O'Connell stated that most of the legislation they are reviewing is all similar to what we are reviewing. The appraisers are still trying to push their liability limitation legislation. There was much discussion on the legislation to ban algorithms in setting rent.
- 9. Education/CLE Committee** *Joan Fritsche, Miro Kovacevic, Carolin Topelson*
- a. Ms. Fritsche stated that Short-term Rentals will be the theme of the spring update. She asked that everyone try and attend in person.
- 10. Education/Topical Lunches Committee** *Deanne Stodden, John Koechel, Jordan Bunch*
- a. Ms. Stodden indicated that their report covers all the recent and upcoming topics. They are still looking for a topic in June.
- 11. Communications Committee** *Joan Fritsche, Josh McMahon, Michelle DeVoe*
- a. Ms. Fritsche explained that the latest edition of the newsletter was sent in January. The next newsletter is in the Spring (likely mid-April). Ms. Ham indicated that the CBA website will be changed in 2025 and there will be a section community page. The external pages will generally go away. We will indicate instructions for the new webpage for the internal section documents in the next Newsletter.
- 12. Publications Committee** *Steve Nagy, Reagan Larkin, Josh McMahon, Eric Snyder*
- a. Ms. Larkin said that they need assistance in formulating a paper on the discussion that Mr. Cox will have in the spring update. They are always looking for article ideas.
- 13. Community Service/Charitable Committee** *John Koechel, Lisa Connolly, Jordan Bunch*
- a. Mr. John Koechel stated that there are early discussions in terms of an event we could look at doing with respect to workforce housing needs in Denver. He is also working on more dates with Habitat with Humanity for the spring/summer.
- 14. Affordable Housing Committee** *Melinda Pasquini, Erin Clark, Alex Gano, Carolin Topelson, Lyndsey O'Connell, Brianna Dowling, Amy Brimah*
- a. Ms. Brimah stated that most of their work has been reviewing legislation.
- 15. Membership and Practice Development Committee** *Steve Nagy, Miro Kovacevic, Michelle DeVoe, Lisa Connolly*
- a. Mr. Miro Kovacevic indicated that they did not meet last month, and they are still working on looking at how things like the DU CLE could be a membership builder.

- 16. Landlord/Tenant Task Force** *Deanne Stodden, Lyndsey O’Connell, Reagan Larkin, Carolin Topelson, Erin Clark*
- a. Ms. Stodden explained that they are mainly reviewing legislation. She explained that the Colo. Supreme Court did not agree with our *amicus* position in *Miller v. Amos*. The Court essentially ruled that the eviction statute did not control over the fair housing statute. Ms. Topelson indicated that there is still a question as to how to administer these claims between County Court and District Court because the fair housing statute requires a District Court to hear these claims, not County Court where most eviction cases are heard. Ms. Schmitz is confused as to how the Supreme Court found an equitable defense when the fair housing claim was a statutory defense. She is concerned about how the lower courts will address this and the many procedural issues.
- 17. CCIOA Task Force** *Joey Lubinski, Miro Kovacevic, Steve Nagy, Josh McMahon, Susanne Leff, Justin Nyberg*
- a. Mr. Kovacevic indicated that they have been reviewing legislation and are waiting on the Construction Law section before taking positions on SB24-112 and SB24-106.
- 18. CBA Cannabis Law Committee Liaison** Alyson Jaen
- a. Ms. Jaen provided an email summary. She indicated that the City of Brighton is the latest municipality in Colorado to allow medical and recreational marijuana sales via Ordinance No. 2439. Only 4 dispensaries will be allowed, and there is a prohibition on growing or manufacturing in Brighton. On the state legislative side, a new social equity bill, HB24-1061, is looking to create new preferential delivery opportunities and changes to the current social equity licensing program. Right now, this bill is getting a lot of push back from larger cannabis industry groups and it has an uphill battle. On Wednesday, eight parliamentary committees in Germany are set to take up a bill to legalize cannabis. There's potential for legalization and enactment of a cannabis program in April 2024.
- 19. CBA Ethics Committee Liaison** Kate Strauss
- 20. CBA Tax Section** Tyler Murray
- a. Mr. Tyler Murray sent a written update. In it he explained that he attended the January Tax Section Executive Council meeting. There were no real estate related discussions to report. The next meeting of the Tax Section is this Thursday.
- 21. CBA Trust and Estate Section** Chad Rounds
- a. Mr. Chad Rounds indicated that there is a push in that Section to donate to the Bar Association Foundation in lieu of making specific contributions to groups like CODAC. They have not decided how to proceed with this request.
- 22. CBA Forms Committee** Nicole Nies

- a. Mr. Damian Cox indicated that they are working on the contract to buy and sell form.
- 23. Colorado Association of Realtors (CAR):** Damian Cox
- a. Mr. Cox indicated that we are opposing the same bills in this Section that CAR is opposing, but they are typically using the amend position to try and influence the legislature. CAR did not take a position on the just cause eviction legislation to try and stay out of the politics of it.
- 24. CBA Business Section** Andy Toft
- a. Mr. Andy Toft explained that they have done little review of legislation. The Business Law Institute will be this coming fall and one topic will be troubled commercial real estate in Denver.
- 25. Board of Governors** Amy Brimah
- a. No Update.
- 26. CBA Title Standards** Catherine Hance, Geoff Anderson, Adam Hirsch
- a. Ms. Hance explained that they had no other business than the action items above.
- 27. Oil and Gas, Water & Natural Resources Taskforce** *Amy Mowry*, Jordan Bunch, Michelle DeVoe, John Koechel, Marjorie Sant, Zac Grey
- a. Ms. Michelle DeVoe explained that they reviewed legislation regarding granting liability protections for private property owners when they grant the right to cross said land for access to public lands.
- 28. Special Districts Taskforce** *Joan Fritsche*, Lisa Connolly, John Koechel, Doug Tueller
- a. Ms. Fritsche explained that the Taskforce reviewed HB24-1304. Ms. Connolly explained that they are willing to move to amend position from the recommended oppose position, but they think that there are so many amendments that they would make to the bill that it left them in an oppose position. Ms. Brimah indicated that taking an oppose position here with Rep. Woodrow would be too difficult for us to be effective. Ms. Brimah will reach out to Mr. Mounsey regarding whether we can get to amend and be more effective.
- 29. Records Redaction Taskforce** *Holly Ryan*, Lisa Connolly, Reagan Larkin, Michelle DeVoe, Chuck Calvin
- a. Ms. Ryan explained that they did review SB24-129, and they ended up at no position on the legislation. They've not met otherwise.
- 30. CBA Young Lawyers Division** Dani Kaiser
- a. No update.

31. Regional Membership Liaison

Doug Tueller

- a. No update.

INACTIVE

32. Eminent Domain

Steve Nagy, Miro Kovacevic, Jody Alderman

- a. No update.

33. Diversity and Inclusionary Liaison

Eric Nesbit

- a. No update.

34. Access to Justice Liaison

Andy Toft

- a. No update.

NEW MATTERS

None.

ADJOURN

Mr. Meseck adjourned the meeting at 5:00 p.m.

**Real Estate Section Council
Meeting Schedule
for 2023-2024**

August 15, 2023
September 19, 2023
October 17, 2023
November 21, 2023
December 7, 2023*
January 16, 2024
February 20, 2024
March 19, 2024
April 25-27, 2024**
May 21, 2024
June 18, 2024

*Annual Holiday Party, No Meeting.

**Real Estate Council offsite meeting April 2024.

ATTENDANCE ROSTER
Real Estate Law Section Council
February 20, 2024
COLORADO BAR ASSOCIATION

In-Person/Remote Meeting

NAME	PRESENT	EXCUSED	ABSENT
Officers:			
James M. Meseck – Chair	X		
Angie Schmitz – Vice Chair	X		
Zakary A. Kessler - Secretary	X		
Adam Aldrich – Legislative Policy Officer	X		
Amy Brimah – Board of Governors Representative, Immediate Past Chair	X		
Members:			
Steve Nagy (2024)		X	
Reagan Larkin (2024)	X		
Deanne Stodden (2024)	X		
Joan Fritsche (2024)	X		
Lyndsey O’Connell (2025)	X		
John Koechel (2025)	X		
Michelle DeVoe (2025)	X		
Miro Kovacevic (2025)	X		
Carolin Topelson (2026)	X		
Lisa Connolly (2026)	X		
Jordan Bunch (2026)	X		
Josh McMahon (2026)	X		
Committees / Liaisons:			
Melinda Pasquini – Affordable Housing Committee Chair		X	
Chad Rounds – Trusts and Estate Liaison	X		
Damian Cox –CAR Liaison	X		
Danielle Kaiser – YLD Liaison			X
Tyler Murray – Tax Section Liaison	X		
Alyson Jaen – Cannabis Liaison	X		
Nicole Nies – CBA Forms Committee Liaison		X	
Catherine Hance –RE Title Standards Committee	X		
Doug Tueller – Regional Liaison		X	
Andrew Toft – Access to Justice Liaison/Business Section	X		
Kate Strauss- Ethics Committee Liaison			X
Eric Nesbitt- Diversity Liaison/Inclusion Taskforce Chair			X
Amy Mowry – Oil & Gas/Water/Nat’l Resources		X	
Justin Nyberg – CCIOA Task Force			
Holly Ryan	X		
Cindi Stovall – Uniform Restrictions in Land Records Act		X	

Staff & Guests:			
Jess Ham, CBA	X		
Fisk Beckham	X		
Jean Arnold	X		
Julie Waggener	X		
Tyler Mounsey	X		
John Himmelmann	X		
Joey Lubinski	X		
Geoff Anderson	X		
Stacey Shea	X		
Amber Valdez	X		
Anna Cherubin	X		
Robin Nolan	X		
Ron Jung	X		