

MINUTES

CBA Real Estate Law Section Council
Date: Tuesday, January 16, 2024 – 3:00 p.m.

Colorado Bar Association
Zoom Only Due to Inclement Weather

Call to OrderJim Meseck

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

1. Introductions.....Jim Meseck

2. Approval of November MinutesJim Meseck

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

3. Financial Report (\$47,568.48 as of December 31, 2023)Zak Kessler

4. Chair’s ReportJim Meseck

a. Happy Hour after the meeting — Cancelled.

b. April Meeting – Wee Casa, Lyons, CO - April 25-27, 2024 (<https://weecasa.com/>)

i. Mr. Meseck and Ms. Jess Ham explained that we will be reserving a tiny home resort for this meeting. The meeting will be on-site at their meeting facility. They are still working out the details for activities. Ms. Ham will provide an RSVP link in the coming months once the details are finalized.

c. Title Standards Committee New Member Welcome – Adam Hirsch

i. Ms. Catherine Hance explained that Mr. Adam Hirsch practices in the bankruptcy area and is a Partner at Davis, Graham, and Stubbs. Mr. Hirsch’s experience as a member of the Committee will fill a vacancy resulting from the retirement of a Committee Member who also had bankruptcy experience.

d. Natural Resources Taskforce New Member Welcome – Zac Grey

i. Mr. Zac Grey introduced himself. He explained that he originally did natural resources work out of law school and handles that work for Frasca, Joiner, and Goodman & Greenstein P.C. He’s excited to be a part of the committee.

e. Presenting the 2023 Colorado Bar Association Strategic Plan

- i. Mr. Meseck asked Members to be familiar with the plan. Ms. Ham had no additional update from the greater Bar Association regarding the plan or its implementation.
- f. Title Standard 3.2.1 – Possible Referral to Title Standards Committee for Review
 - i. Mr. Meseck asked the Title Standards Committee to look into the request from Section Members to review some potential issues with the Standard as a result of the transition over the last several decades to the use of beneficiary deeds during the estate planning process, and they will begin to review it.

5. Action Items:

- a. Symposium Event – Geeks Who Drink Trivia..... Angie Schmitz
 - i. Ms. Angie Schmitz explained that the general planning is coming together, and the event will feature some interesting sessions on AI. The book discussion over lunch will be Killers of the Flower Moon. Ms. Schmitz also noted that she is looking to put together a non-mixer style event with Geeks Who Drink Trivia. Ms. Schmitz did this same style event at a Women’s Bar Association conference, and it was well attended. She would be looking at doing it after the Wine Tasting. The price is \$3,600 for 200 attendees. Mr. Andy Toft asked about sponsorship opportunities to defray the cost. Ms. Schmitz agreed to try and work with CBA/CLE to see what opportunities might exist. Mr. Meseck thinks this is a wonderful option for everyone that attends the Symposium without having a predetermined social plan. Ms. Jordan Bunch asked whether this could replace an event instead of doing it after another one. Ms. Carolin Topelson asked if anywhere in Vail already does this and whether we could coordinate with that establishment to also defray cost compared to bringing the group to the hotel. Mr. Meseck asked the group to table any further decision on this to another meeting in order for Ms. Schmitz to work through all the feedback.

6. Legislative Matters.....Adam Aldrich, Tyler Mounsey

- a. 2024 Regular Legislative Session
 - 1. Mr. Adam Aldrich explained that there is a bill to review regarding prohibiting the use of algorithms in setting rent. There are 3 CCIOA bills, of which, the one regulating association managers is the most substantive. The second is about low water vegetation prohibitions, and the third is about exemptions from CCIOA for small associations. There is a bill dealing with treasurer’s deeds. There is a short-term rental taxation bill to bring said rentals up to hotel tax rates. A bill has been introduced to limit the statute of limitations with respect to appraisers. Mr. Aldrich also explained that people giving testimony at LPC meetings are strongly encouraged to attend in person, and he informed the Council to expect several more bills for review that he knows will be introduced soon.

- ii. Legislative Memos Due Tuesdays 12:00 p.m.
 - 1. Form
 - 2. Guidelines
- iii. LPC Meetings – Fridays @ 7:30 a.m., in-person at the CBA Offices.
 - 1. Mr. Meseck explained that the CBA is trying to ensure that all Sections are consistent in their analysis/recommendations regarding pending legislation and to avoid getting involved in the politics of the legislature. Mr. Steve Nagy explained that the current legislation he is reviewing for the Section is highlighting serious problems with the drafting. He explained that the legislation has issues with respect to references to existing statutes, and he is unsure how far we should be going to edit this work. Mr. Meseck indicated that we will just have to continue to lean on Mr. Tyler Mounsey for feedback on how and what to propose to LPC. Mr. Adam Aldrich indicated that we should highlight drafting issues to try and address them early in the process to avoid becoming an editorial board for the legislature. Mr. Aldrich asked to know about these types of bills early in the process, so he can give us advice on how best to proceed with any particular bill. Mr. Chris Payne noted that we can help bring in stakeholders (the Division of Real Estate with respect to the bill mentioned by Mr. Nagy) to potentially help get these bills cleaned up. Mr. Andy Toft reminded the group that LPC does not necessarily have expertise in any particular area, so in some ways it is good for LPC to be made aware of poorly written bills as context for our requests before them. Mr. Nagy also mentioned that the Business Law Section should probably weigh in on certain definitions pertaining to business entities in the state. Mr. Nagy will forward his example to Mr. Toft. Mr. Eric Snyder also pointed the group to review the treasurer’s deed article in the current Colorado Lawyer as potentially addressing issues with our tax lien statutes caused by the *Tyler v. Hennepin County* U.S. Supreme Court case. Ms. Holly Ryan indicated that the counties are working to make sure that there is legislation introduced to address this issue. Mr. Meseck indicated that he will also forward the thoughts regarding editorial work on legislation drafting to Ms. Robin Nolan who is one of the chairs of LPC and a former Section Council Member. Mr. Meseck reminded the Voting Members to please read the emails and attachments when Council starts voting on bills and requested that they not hold back from debate as part of the Section votes.

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

- a. Colorado Lawmakers, Ready for Another Stab at Land-use reform, Say They’ve Learned from Last Year’s Failure: <https://www.denverpost.com/2024/01/07/jared-polis-legislature-land-use-reform-zoning-codes/>

- b. The Future of Exclusionary Zoning and Land Use in Colorado, by Amy Brimah – Colorado Lawyer
- c. Short-term Rentals Litigation - *Coonskin Condominium Owners Association, Inc. d/b/a/ Telluride Mountainside Inn Owners Association, Inc. v. The Town of Telluride*
- d. Four Star Realty to Pay \$1M for Illegally Billing Colorado Renters
- e. U.S. Supreme Court Signals Narrow Win for California Property Owner Fighting Permitting Fee: <https://www.courthousenews.com/supreme-court-signals-narrow-win-for-california-property-owner-fighting-permitting-fee/>
- f. Mr. Meseck encouraged the members to review and be familiar with these developments.

REPORTS AND INFORMATIONAL ITEMS

- 8. **Interprofessional Committee** *Reagan Larkin*, Lyndsey O’Connell
 - a. Ms. Reagan Larkin explained that their next meeting is coming up on Thursday, so there is no new update after November’s meeting. Ms. O’Connell indicated that the appraisers did give notice of the appraiser protection legislation. Mr. Aldrich indicated that we need to have the memo on said legislation in order to take a monitor position.
- 9. **Education/CLE Committee** *Joan Fritsche*, Miro Kovacevic, Carolin Topelson
 - a. Ms. Joan Fritsche indicated that the Spring Update will be the newly approved “hot topics” format covering short-term rentals featuring a variety of speakers (local and state governments, case law, etc.). It will be held Friday, March 8th. Ms. O’Connell noted that the joint CLE that she and Ms. Jean Arnold presented today regarding mechanics’ liens went well, and that they tried to promote cross membership to the attendees. They had 140 attendees at one point. Ms. Arnold was pleased that they were able to cover three hours of material in 55 minutes. Mr. Meseck thanked Ms. Arnold and Ms. O’Connell for their work putting the CLE together.
- 10. **Education/Topical Lunches Committee** *Deanne Stodden*, John Koechel, Jordan Bunch
 - a. Ms. Deanne Stodden is looking to host a lunch on solar leasing with YLD in April or May. Ms. Bunch is presenting in February on energy ground leases.
- 11. **Communications Committee** *Joan Fritsche*, Josh McMahon, Michelle DeVoe
 - a. Ms. Fritsche indicated that the Winter Newsletter went out on January 11th, and the Committee is targeting mid-April for the next one. She will be the editor for that one, and she asked for articles to include in it. Ms. Fritsche thanked Ms. Ham for the work she’s done updating the website.

- 12. Publications Committee** Steve Nagy, Reagan Larkin, Josh McMahon, Eric Snyder
- a. Mr. Nagy explained that they had published Ms. Amy Brimah’s article on zoning in December’s issue of Colorado Lawyer and the treasurer’s deed article by Ms. Makenna in January’s issue. He expects more articles in the coming months regarding short-term rentals and the Corporate Transparency Act.
- 13. Community Service/Charitable Committee** John Koechel, Lisa Connolly, Jordan Bunch
- a. Mr. John Koechel indicated that they are in preliminary discussions with Habitat for Humanity to do another event once the weather improves. He is also interested in trying to possibly assist with the homelessness issue that the Denver Mayor is currently trying to address. Mr. Meseck thinks this is interesting and is why he is looking forward to having the April meeting in the tiny home resort in Lyons. Ms. O’Connell will provide Mr. Koechel with resources she has found regarding Colorado’s use of tiny homes in addressing this issue.
- 14. Affordable Housing Committee** Melinda Pasquini, Erin Clark, Alex Gano, Carolin Topelson, Amy Brimah, Lyndsey O’Connell, Brianna Dowling
- a. Ms. Brimah indicated that they have not had a January meeting and the committee has reviewed a bill regarding attorney’s fees for prevailing parties in Rule 106 proceedings. There is a 2nd bill they are reviewing regarding the state eliminating occupancy limits for unrelated persons. The Committee may be recommending we support this bill. The Committee may also be proposing a Colorado Lawyer article on the subject.
- 15. Membership and Practice Development Committee** Steve Nagy, Miro Kovacevic, Michelle DeVoe, Lisa Connolly
- a. Mr. Nagy explained that they have completed the welcome email to new members for review by the Officers and the whole Council. They are also looking at opportunities to cross market with other Sections. They will meet again as a committee later in the month.
- 16. Landlord/Tenant Taskforce** Deanne Stodden, Lyndsey O’Connell, Reagan Larkin, Carolin Topelson, Erin Clark
- a. Ms. Stodden indicated that they do not have an update on our *amicus* brief submitted in *Miller v. Amos*. They are reviewing legislation that would prohibit algorithms being used to set rents in Colorado. Mr. Meseck asked what might be behind the bill. Ms. Stodden indicated that there are cases in other jurisdictions trying to tie the practice to price fixing and unfair trade practices. The Taskforce will have the formal recommendation soon.
- 17. CCIOA Taskforce** Joey Lubinski, Miro Kovacevic, Steve Nagy, Josh McMahon, Susanne Leff, Justin Nyberg

- a. Mr. Joey Lubinski explained that they are still reviewing the three bills that they have been assigned so far, and they are also monitoring the Legislature’s HOA taskforce for their recommendations. He believes that the taskforce will propose a further study committee with a more comprehensive re-write to CCIOA to address their recommendations. Mr. Lubinski stated that they are working on the *Fairways at Buffalo Run* case legislative fix, but he is unsure whether it has been formally introduced or has more than the initial sponsor. Mr. Aldrich does not have an update regarding whether they have obtained a sponsor for the bill.

18. CBA Cannabis Law Committee Liaison Alyson Jaen

- a. Ms. Alyson Jaen indicated that they have not had a formal meeting. She indicated that there is one regulation change being implemented that allows for online orders and delivery of cannabis products. They will be having a Cannabis Law Section Update on February 29th, 2024. She indicated that recently the FDA completed a study supporting rescheduling marijuana at the Federal Level.

19. CBA Ethics Committee Liaison Kate Strauss

- a. No Update.

20. CBA Tax Section Tyler Murray

- a. Mr. Kessler provided an update for Mr. Tyler Murray who sent in an email update because he was going to miss the meeting. The Tax Section held its multi-sectional 2023 Case Law Update last week. It was attended by over 100 people. Mr. Murry thanked Mr. Nathan Osborn, a Real Estate Section Member, for his excellent real estate presentation. Their Section’s Legislative Update will be held in June. The Real Estate Section generally has the symposium legislative update presenter provide a shortened version (25 minutes) of the same presentation at the Tax Section Event. The Tax Section will continue to monitor the legislative session for any tax related bills.

21. CBA Trust and Estate Section Chad Rounds

- a. Mr. Chad Rounds promoted Ms. Schmitz’s upcoming CLE sponsored by that Section regarding selling a decedent’s home. Mr. Meseck asked Ms. Ham to send the notice of the CLE to the Real Estate Section, and she will coordinate with that Section liaison.

22. CBA Forms Committee Nicole Nies

- a. Ms. Nicole Nies indicated that they are working on the contract to buy/sell and environmental disclosure. She expects that most of the changes they will approve are minor, clean-up related changes. The due diligence document list will see additions and some changes regarding assessments and working capital with respect to HOAs. There might be changes to the possession section to address potential post-closing occupancy agreements. Their next meeting is March 12th.

23. Colorado Association of Realtors (CAR): Damian Cox

- a. No Update.
- 24. CBA Business Section** Andy Toft
- a. Mr. Toft indicated that they have not had a meeting since November 29th, 2023, but they did also contribute to the same programs we voted to assist (CODAC and Greater Colorado Law Project). He is unaware of any attempts to run legislation as a Section, except for the Colorado Voidable Transactions Act with Sen. Bob Gardner as the potential sponsor.
- 25. Board of Governors** Amy Brimah
- a. Ms. Brimah did not have an update because they do not meet till June, 2024.
- 26. CBA Title Standards** Catherine Hance, Geoff Anderson, Adam Hirsch
- a. Ms. Hance indicated that they do not have more issues for the Section to review other than the updated title standard that they will propose to be updated upon discussion and vote at the Section's February meeting.
- 27. Oil and Gas, Water & Natural Resources Taskforce** Amy Mowry, Jordan Bunch, Michelle DeVoe, John Koechel, Marjorie Sant, Zac Grey
- a. No Update.
- 28. Special Districts Taskforce** Joan Fritsche, Lisa Connolly, John Koechel, Doug Tueller
- a. Ms. Fritsche indicated that the state legislative taskforce is moving slowly, but they have published a survey for people who live in districts to help guide their priorities.
- 29. Records Redaction Taskforce** Holly Ryan, Lisa Connolly, Reagan Larkin, Michelle DeVoe, Chuck Calvin
- a. No Update.
- 30. CBA Young Lawyers Division** Dani Kaiser
- a. No Update.
- 31. Regional Membership Liaison** Doug Tueller
- a. Mr. Meseck indicated that Mr. Doug Tueller and Mr. Nagy are possibly going to do a CLE about short-term rentals in mountain communities. Mr. Nagy indicated that they may use the subject for a Colorado Lawyer article first.

INACTIVE

- 32. UCC Task Force** Andy Toft, Josh McMahon, Lyndsey O'Connell

a. No Update.

33. Eminent Domain

Steve Nagy, Miro Kovacevic, Jody Alderman

a. No Update.

34. Diversity and Inclusionary Liaison

Eric Nesbit

a. No Update.

35. Access to Justice Liaison

Andy Toft

a. No Update.

NEW MATTERS

Mr. Toft indicated that there will be a Bar Association reception with legislators on January 23rd, 2024, from 4:30 to 7:30 p.m., and that Mr. Mounsey is hoping that interested Bar Association members can attend in addition to LPC Members and Legislative Liaisons.

ADJOURN

Mr. Meseck adjourned the meeting at 4:26 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
January 16, 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	X
Chad Rounds – Trusts and Estate Liaison	X		
Damian Cox –CAR Liaison		X	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	X		
Holly Ryan	X		
Cindi Stovall – Uniform Restrictions in Land Records Act			X

Staff & Guests:			
Jess Ham, CBA	X		
Eric Snyder	X		
Jean Arnold	X		
Julie Waggener	X		
Sam McMechan	X		
John Himmelmann	X		
Joey Lubinski	X		
Geoff Anderson	X		
Seth Holley	X		
Jenn Eiteljorg	X		
Zac Grey	X		
Chris Payne	X		