

MINUTES

CBA Real Estate Law Section Council
Date: Tuesday, October 17, 2023 – 3:00 p.m.

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

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- Call to Order**Jim Meseck
- a. Mr. Jim Meseck called the meeting to order at 3:01 p.m.
- 2. Introductions**Jim Meseck
- a. Mr. Meseck welcomed the Members and guests to the meeting.
- 3. Approval of September Minutes**Jim Meseck
- a. Ms. Lyndsey O’Connell moved to approve the August Meeting Minutes as presented in the revised Agenda, Ms. Joan Fritsche 2nd the motion, which was unanimously approved by Council.
- 4. Financial Report (\$56,867.09 as of September 30, 2023)**Zak Kessler
- a. Mr. Zakary Kessler provided an update on the September budget.
- 5. Chair’s Report**Jim Meseck
- a. Happy Hour after the meeting — here in the Bar Association Offices. All are welcome!
 - b. House Build with Blue Spruce Habitat for Humanity and the CBA Real Estate Section, Oct 21, 2023, 9:30 AM – 3:30 PM (Register Here - <https://www.cobar.org/Calendar/Event/sessionaltcd/REAL102123>)
 - i. Mr. John Koechel gave Ms. Jess Ham thanks for the help sending up advertising. Mr. Koechel noted that we have six confirmed attendees, and he is hoping for 8-10 people in attendance. Ms. Ham distributed it to the whole CBA this week.
 - c. Colorado Bar Association Thank You for Sponsoring ABA Reception
 - d. Food for Thought DC Affordable Housing Exhibit Signs
 - i. Ms. Amy Brimah provided the pictures on affordable housing and equity issues on a trip to Washington D.C.
 - e. Title Standards Committee Membership

- i. Mr. Meseck indicated that the Title Standards Committee is looking for new members and has asked for people to reach out Jim with interest. Mr. Geoff Anderson indicated that they are most interested in someone that has trusts/estates expertise, but they would take others as well. Mr. Anderson indicated that they are looking to fill the spot within the next couple of months.
- f. Section Council Caucuses
 - i. Ms. Ham indicated that we were the most represented section. An email is going out for feedback regarding the format and frequency. Ms. Ham will reach out to the Membership and Practice Development Committee and officers to discuss the proposed new member welcome letters. Mr. Meseck will ask the committee to adopt one for our Section. Ms. Ham explained that hybrid attendance options are here to stay for events for most other Sections.
- g. Legal Professionalism Month Proclamation
 - i. Mr. Meseck reminded the members that we are here to support the CBA initiatives and is proud of our Section’s commitment to professionalism.
- h. Real Estate Section Holiday Party – December 6, 2023
 - i. Mr. Meseck noted that everyone should hold open the date for the annual holiday party. Ms. Ham indicated that we might have to change the venue depending on whether they have availability.

6. Action Items:

- a. Miller v. Amos Amicus Brief Filed Jim Meseck, Deanne Stodden
 - i. Mr. Meseck gave a special thanks to Deanne Stodden, Lyndsey O’Connell, Reagan Larkin, Carolin Topelson, Erin Clark, Miro Kovacevic, and Angie Schmitz for their hard work on the Brief. Mr. Meseck thought that the time and effort put into the brief is a testament to the quality of the people on Section Council.
 - ii. Bar Association Amicus Process: Amicus Committee presentation and vote, then CBA Executive Council approval (Final Vote was 13 in favor, 1 against, and 12 abstentions (6 were due to no response)).
 - 1. Mr. Meseck indicated that the process was multi-layered and further evidences the effort of the Task Force.
 - iii. Summary of additional Amicus Briefs
 - 1. Ms. Deanne Stodden explained that most of the other briefs were limited to policy arguments and somewhat lacking in legal argument. Ms. Carolin Topelson indicated that the statutory change made this legislative

session to eviction proceedings will continue to create issues in cases, and she thinks we need to be ready to propose a fix to the jurisdiction issues involved with this Fair Housing defense.

b. Buyer Radon Disclosure Form.....Jim Meseck

i. Mr. Damien Cox presented the Buyer Radon Disclosure Form that has been drafted pursuant to the statute for approval by the Real Estate Section and the Bar Association for real estate brokers to use in buy/sell transactions. This is a result of the radon disclosure statute passed in the 2023 legislative session. Mr. Cox indicated that this solves a hole where the Seller does not provide the Seller's Property Disclosure, but they still have the statutory requirement to make the Radon Disclosure. Mr. Cox will replace references to tenant with buyer and a couple of additional typos. Ms. Topelson moved to approve with the suggested edits. Mr. Aldrich 2nd the motion, and the form was approved unanimously.

c. Uniform Unlawful Restrictions in Land Records Act.....Adam Aldrich, Tyler Mounsey, and the Records Redaction Task Force Members

i. Mr. Tyler Mounsey explained that the Uniform Laws Committee meeting will cover more than just this real estate issue. Ms. Lisa Connolly summarized the uniform law as providing several means for removing prohibited provisions from chain of title to real property, which is more broad than our current statute. Ms. Connolly explained that the law presents concerns because a party may unilaterally change the real estate records without all parties involved in the process. Ms. Connolly noted that the act still does not remove these documents with offensive clauses from the chain of title, thus limiting the practical benefit. Ms. Robin Nolan reminded the group that we came to this same conclusion when we reviewed the issue for Colorado law two years ago. Mr. Adam Aldrich will attend the meeting Friday and present our concerns without taking a formal position.

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

a. Construction defects: <https://coloradosun.com/2023/10/02/colorado-construction-defects-bill-2024-housing/>

b. Tyler v. Hennepin County: AG Formal Opinion on Colorado Tax Deeds Following US Supreme Ct. Decision

i. Mr. Mounsey gave the issue to the contract lobbyist, and the Council should have an update soon once the legislator that the AG's office is working with on the legislative fix provides an update.

c. HB22-1137: HOA clean up bill to address the treatment of violations, posting, notification challenges, and payment plans.

- i. Mr. Mounsey explained that the Governor’s legislative task force on this was appointed last week, and their first meeting is October 24th. Mr. Mounsey will send the Council the list of people on the task force once he has it.
- d. Fairways at Buffalo Run: Tyler Mounsey and Chuck Clavin met with Rep. Lindquist the drafting of proposed legislation addressing the issues created by the decision
 - i. Mr. Mounsey indicated that the proposed legislative language from the Legislature’s drafting attorneys is not yet available to review.

8. In the News.....Jim Meseck

- a. Democrats and Republicans Seek Legal Power to Clear Homeless Camps: https://www.nytimes.com/2023/09/27/us/in-rare-alliance-democrats-and-republicans-seek-legal-power-to-clear-homeless-camps.html?unlocked_article_code=fHM2amqrFRndM1ouOWMmwckFn3oi54adt7ZUL8dPKZQ8m5idUdYZtXLDMJeo0Z4brEL9bdf3odehVaRcuKptaBkURqglmvoZlWwG6sjNoAvRwqrOXVRVyXUpE8I5wt5LzD797wANCzHnoRomKos96Y-LV5YZBxxwD9zMC3TjOdYzsS7Dfl6SBTLiN01kywdJzl4IWT7G98KNW8oBpj7JUip56rGCL_yy0gZe6fmtxPJ5oBRV--odFiKaNUoMoW2ub8DVCK-xWxdtSahs7b_YPaASo6eD35zxm6okZqkkrWbXJCTriJgWD6shzJp54zF9X47n0z5GuMV6JRydUtPN4wTmupZ_5uSGdcfCqPeiXPaib4MIFq_nGAp98Z6GL63Qh2DKATKzd3jIOwPcLuEud9TknhdDlyXQ&smid=url-share
 - i. Mr. Meseck indicated that we have included these articles to keep these issues fresh in the minds of Council Members to be prepared for legislative issues in the area.
- b. Conservation Funds Buy Mt. Democrat: <https://coloradosun.com/2023/09/21/conservation-fund-buys-mount-democrat/>
 - i. Mr. Anderson indicated that the reason the original owner sold was the unavailability of insurance to allow recreational uses, and this is tied to the legislative fix proposed for private landowners that is referenced in the article below.
- c. Immunity for Private Landowners in Allowing Recreational Uses on Property: <https://www.backpacker.com/news-and-events/news/mt-democrat-fourteener-bought-conservation-fund/>

REPORTS AND INFORMATIONAL ITEMS

9. Interprofessional Committee *Reagan Larkin, Lyndsey O’Connell*

- a. Ms. Reagan Larkin explained the memo below and that there are many initiatives starting in advance of the 2024 legislative session.

- 10. Education/CLE Committee** *Joan Fritsche, Miro Kovacevic, Carolin Topelson*
- a. Ms. Fritsche indicated that due to attendance they are starting to have conversations as a Committee to determine whether a change in format would help attendance. Ms. Susy McNulty explained that our multiple offerings seem to be hurting in person attendance at the fall/spring updates. Ms. McNulty stated that CBA-CLE is floating the idea of moving these to half-day hot topic programs on which RESC could guide the programming. Ms. Fritsche proposed “Affordable Housing” as a topic for Spring of 2024 and removing the virtual option (leaving only the home study option after the live event). Mr. Meseck asked the Committee to present a proposal at the next meeting and noted that he received positive feedback about the Fall Update. Ms. Fritsche explained that the Construction Law Section is planning a Mechanics’ Lien CLE and will get more information from them about a potential collaboration.
- 11. Education/Topical Lunches Committee** *Deanne Stodden, John Koechel, Jordan Bunch*
- a. Ms. Stodden explained the upcoming schedule, which will include monthly lunches through the first quarter of 2024.
- 12. Communications Committee** *Joan Fritsche, Josh McMahon, Michelle DeVoe*
- a. Ms. Fritsche highlighted that the fall newsletter went out in late September. For the next newsletter, they want to include the Amicus Brief.
- 13. Publications Committee** *Steve Nagy, Reagan Larkin, Josh McMahon, Eric Snyder*
- a. Ms. Larkin explained that Ms. Brimah’s article on inclusionary zoning will be coming up in December with others forthcoming.
- 14. Community Service/Charitable Committee** *John Koechel, Lisa Connolly, Jordan Bunch*
- a. Ms. O’Connell will help promote the Habitat event this coming weekend.
- 15. Affordable Housing Committee** *Melinda Pasquini, Erin Clark, Alex Gano, Carolin Topelson, Deanne Stodden, Lyndsey O’Connell, Brianna Dowling*
- a. Ms. O’Connell stated that the Committee began discussions about trying to have an informal event with legislators and other interested parties to try and have advanced discussions regarding legislation that might be coming up in the 2024 session.
- 16. Membership and Practice Development Committee** *Steve Nagy, Miro Kovacevic, Michelle DeVoe, Lisa Connolly*
- a. Ms. DeVoe will work with YLD on a future proposed event that this Section might co-sponsor with them.
- 17. Landlord/Tenant Task Force** *Deanne Stodden, Lyndsey O’Connell, Reagan Larkin, Carolin Topelson, Erin Clark*

- a. Colorado Courts – Eviction Answer & Defenses Form
 - i. Mr. Meseck encourages everyone to review this form. Ms. Topelson explained that most tenants are just checking all the boxes on the form, and it is creating many difficulties in administering eviction cases.
- 18. CCIOA Task Force** *Joey Lubinski*, Miro Kovacevic, Steve Nagy, Josh McMahon, Susanne Leff, Justin Nyberg
- a. Mr. Joey Lubinski indicated that they will continue to monitor the legislative matters in the area.
- 19. CBA Ethics Committee Liaison** Kate Strauss
- a. None.
- 20. CBA Tax Section** Tyler Murray
- a. None.
- 21. CBA Trust and Estate Section** Chad Rounds
- 22. CBA Forms Committee** Nicole Nies
- a. Ms. Nicole Nies indicated that the Forms Committee’s work will begin in earnest in December for proposed 2024 updates.
- 23. Colorado Association of Realtors (CAR):** Damian Cox
- a. Mr. Cox indicated that CAR opposes proposition HH.
- 24. CBA Business Section** Andy Toft
- a. Mr. Andy Toft said that the September meeting was the Business Law Section’s first formative one for the upcoming year.
- 25. Board of Governors** Katy Dunn
- a. None.
- 26. CBA Title Standards** Catherine Hance, Geoff Anderson
- a. Mr. Anderson indicated that deliberations continue on Title Standard 5.5.1 and 5.1.2 and might have something to recommend to us next month.
- 27. Oil and Gas, Water & Natural Resources Taskforce** *Amy Mowry*, Jordan Bunch, Michelle DeVoe, John Koechel, Marjorie Sant
- a. None.

- 28. Special Districts Taskforce** *Joan Fritsche*, Lisa Connolly, John Koechel, Doug Tueller
- a. None.
- 29. Records Redaction Taskforce** *Holly Ryan*, Lisa Connolly, Reagan Larkin, Michelle DeVoe, Chuck Calvin
- a. None.
- 30. CBA Young Lawyers Division** Dani Kaiser
- a. Ms. Danielle Kaiser presented that the YLD Section and Environmental Law Section are potentially looking to partner with the Real Estate Section on a CLE regarding solar leases. They are looking potentially at sometime in January 2024 for the CLE. Ms. Kaiser would like to do a combined YLD Section and Real Estate Section happy hour because there are more than 300 cross-members.
- 31. Regional Membership Liaison** Doug Tueller
- a. None.
- 32. CBA Cannabis Law Committee Liaison** Alyson Jaen
- a. Ms. Alyson Jaen explained that they will have a Symposium in February 2024 and noted that there is regulatory rulemaking occurring for social cannabis clubs in Colorado. Ms. Jaen indicated that there is hope in the industry that the SAFER banking bill will finally pass the U.S. legislature.

INACTIVE

- 33. Eminent Domain** *Steve Nagy*, Miro Kovacevic, Jody Alderman
- 34. Diversity and Inclusionary Liaison** Eric Nesbit
- 35. Access to Justice Liaison** Andy Toft
- 36. UCC Task Force** *Andy Toft*, Josh McMahon, Lyndsey O’Connell

NEW MATTERS

- 37.** Ms. Topelson and Mr. Meseck will find someone to attend the Affordable Housing Coalition luncheon this week.

ADJOURN

Ms. Larkin moved to adjourn at 4:40 p.m., Ms. Schmitz 2nd the motion, and it was approved unanimously.

**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 16, 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
October 17, 2023
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		
Katy Dunn – Board of Governors Representative			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	
Amy Brimah – Immediate Past Chair RESC	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 Standard 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

Staff & Guests:			
Jess Ham, CBA	X		
Khrysanthe Meier, Hoffman, Nies, Dave & Meyer LLP	X		
Marjorie Sant, Nat'l Resources Task Force	X		
Susie McNulty, CBA	X		
Seth Holley, First American Title	X		
Josh Gurrero, First American Title	X		
Corey Zurbuch, Brownstein	X		
Joey Lubinski	X		
Geoff Anderson	X		
Tyler Mounsey, CBA	X		
Robin Nolan, Spencer Fane	X		