

Colorado Legislative Action Committee (CLAC)
Minutes-December 3, 2009

*Eastridge Recreation Center-Highlands Ranch
 9568 University Blvd, Highlands Ranch, CO*

Call to order – 1:34 PM-Chair Gary Debus

Attendance-Members/Delegates:

Bobb, Andrea	Goff, Pam	Lukasik, Walt	Pacetti, Chris
Debus, Gary	Graf, David	McIntyre, Jason	Tobey, Gary
DeLisio, Carmine	Kutzer, Jeff	Moore, Kevin	Wilderotter, Pat
Foley-Healy, Molly	Leff, Suzanne	Orten, Jerry	Witt, Jesse

Guests:

Redfern, Amy; Aponte & Busam Public Affairs	Conklin, Steve; Exec. Director-Rocky Mtn Chapter
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Call to order: Chair Gary Debus called the meeting to order at 1:34 PM and asked if any member had a conflict of interest with items on the agenda, or in general regarding the business of the LAC, which he or she needs to disclose. There were no such disclosures.

Introductions: Introductions were waived as all attendees knew one another.

ITEMS OF BUSINESS: Several items as enumerated on the agenda were discussed:

Update on Amicus brief-Fairway Pines: Jerry Orten made a presentation regarding the CLAC participation in an amicus brief in the case of Fairway Pines Estates. Jerry indicated that he had petitioned CAI national (as required) for their permission to file an amicus brief and that their approval had not yet been made but was expected. Jerry also indicated that the court had been petitioned for permission (required) to file an amicus brief.

Teller County Homeowners—CCIOA-Envoy group report:

An envoy group composed of Chris Pacetti, Gary Debus, Amy Redfern, Suzanne Leff and Molly Foley-Healy had met with Representative Carole Murray. Molly Foley-Healy & Suzanne Leff reported the results of the meeting. Representative Murray had expressed some concern particularly over some older communities in her district where infrastructure items (primarily older roads) are fully deteriorated with no funds to repair these. Municipalities had been involved but have declined to assume the task. There was some thought on the part of some homeowners to legislatively forcing these owners to become part of HOA's where they were encouraging Rep. Murray to introduce such legislation. The group reported that Rep. Murray seemed to gain a better understanding of CCIOA, CIC's and the concept appears to be dead (at least with her).

Amy reported that in follow-up discussions, it appears that CLAC had made a very favorable impression and CAI made a 'friend' of Rep. Murray.

Lobbyist report: This report was rendered by Amy Redfern.

Construction defect legislation:

This issue is arising again for the 2010 session. There has been no movement on this issue since the last CLAC meeting. Senator Morse and the homebuilders have both expressed interest again in pursuing the issue. These interests are carefully counting their votes in the Senate and it is clear if they do not have their 18 votes they will not attempt to run the bill. Votes are currently categorized as 'squishy.' Amy will continue to follow the details.

Lien Assessments-Sen. K. Lundberg

Senator Lundberg is continuing to pursue certain 'lien assessment' legislation favored by the Douglas County Public Trustee. Amy has not yet seen the draft legislation. We should know further status by our January CLAC meeting. If the bill comes out prior to the next CLAC meeting, it will be distributed electronically.

Lender-Superlien issues:

The 11/5/09 meeting of the group discussing the 'superlien' issues was cancelled. There has been a change of leadership at the Colorado Bar in the person facilitating the meeting due to a client based conflict of interest. Jerry Orten reported that a large benefit to the meetings was the understanding that the participants had gained in comprehending the superlien issue and CIC's. Both Amy and Jerry noted that a lack of specific recommendations may cause the group to disband and no legislation stemming from the group to be introduced.

This series of meetings had been occurring with Larry Castle (who represents a large number of lenders), some lenders, their lobbyists and individuals from the RE section of the Bar. Jerry Orten, Chris, Ruth, Amy and Jim Cowell had largely been representing CLAC at these meetings.

There were some questions relating to whether Larry Castle might attempt legislation on his own and the likely outcome. Jerry and Amy felt that it was possible that Castle may attempt a bill on his own but that the outlook would be very problematic for several reasons.

Ballot Initiatives:

Amy reported that there were a number of ballot initiatives being discussed for the 2010 election and although none of these would affect CLAC or CAI directly, a number would have an indirect effect. These potential initiatives may have a 'chilling' effect on government and some of the initiatives currently being discussed are:

Reduce the motor vehicle registration fee to a minimal amount	Remove the telecommunications tax
Reduce the income tax rate	Prohibit the State from contracting any debt
Discussion of 'revenue' problems in the Constitution (Tabor, Amend 23, Gallagher, etc.)	

HindmanSanchez requested discussion re: Sec 123 of CCIOA:

Molly Foley-Healy transmitted a request from HindmanSanchez (HS) for a CLAC discussion of Sec. 123 of CCIOA. HS has been encountering difficulty in actions against owners if the owners can find a ministerial defect in how the HOA has carried out their administration of the statute.

In particular, some owners have been awarded their attorney's fees when Courts found small violations of CCIOA (such as defects in SB 100 policies). HS had recent negative experiences after a four day trial. HS was asking if other attorneys had similar experiences.

A short discussion ensued, some attorneys reiterated concerns and others indicated that 'judges will simply do what they want'.

Possible bill to limit transfer fees:

Jerry Orten reported on a potential bill to limit transfer fees on the sale of a property in a CIC. It seems that some sellers are recording covenants that require the original seller to be paid a transfer fee whenever the property is sold (in perpetuity.) This concept has 'morphed' into an inclusion of some lenders. In all these cases no services are provided relative to the transfer fee. There is some discussion as to legislation to eliminate the practice although this would not appear to affect CIC's where transfer fees are part of the sales price or community managers who charge a transfer fee for moving the records on a unit from one owner to another. No bill has yet been produced.

Good Samaritan legislation-Rep Acree:

A meeting with Rep. Cindy Acree revealed that she continues to be interested in this concept for the 2010 session although no draft bill has appeared yet. CLAC will be given an opportunity for input to and review of the proposed bill.

HOA 'day at the Capitol' in cooperation with RMC and So CO chapters:

Pat Simpson of the PR committee of the RMC had contacted Gary Debus with the idea of a 'day at the capitol' for CAI. There was some slight confusion between the 'day at the capitol and the 'law day' fundraiser. The 'day at the capitol' concept was discussed and it was pointed out that per national guidelines, CLAC solely has responsibility for all state level advocacy and not any chapter or committee of any chapter. Concerns were expressed over potential conflicting CAI messages to legislators from persons not on CLAC and hence not intimately involved in all of the issues on a frequent basis. It was also pointed out that CLAC used to sponsor such a day and legislative luncheons & breakfasts but these were abandoned due to very poor legislator attendance (1-4 legislators/year) in favor of smaller individual focused sessions which continue to be highly successful and also Amy's recommendation. Some effort will be made in the future to try to include Chapter members in these meetings so they may observe the dynamics of these meetings. Ms. Simpson wished to be present for this CLAC discussion but was unable.

Steve Conklin of the RMC was asked to carry these messages back to the RMC and the PR committee. Steve indicated that with new leadership of the PR committee this 'day at the capitol' was likely no longer a priority.

Administrative portion- minutes, financials:

Minutes: It was announced that the minutes, as previously electronically transmitted for the November 3, 2009 meeting were approved unanimously by E-vote and entered into the record.

Financial reports: No financial report, balance sheet or statement of revenue and expense was presented. (Immediately following the meeting Gary Debus distributed an Email showing that the 2009-2010 CLAC budget had been submitted to CAI-National on 12/3/09.)

New business:

Distribution Frequently Asked Questions booklet and introductory letter to CAI:

A discussion occurred regarding the distribution of an 'introductory CAI' letter (similar to last year) and the FAQ booklet to the 2010 class of legislators. Consensus was to do both. Some members were concerned if the FAQ booklet was up to date and it was decided to distribute electronic copies to a committee to review the document. A group of Chris Pacetti, Kevin Moore, Suzanne Leff and Carmine DeLisio was designated to review, coordinate and rewrite the FAQ as necessary.

Acquisition of Morgan Carroll's 'list':

During the discussion re: the FAQ booklet and introductory letter, some discussion occurred regarding a 'list' that Morgan Carroll currently hands out to homeowners in distress. Amy will make a renewed effort to obtain a copy of the list.

Next meeting: The date and time for the next meeting will be Friday, January 29, 2010 @ 1:30 PM at the offices of Orten, Cavanaugh, Richmond & Holmes, 1445 Market Street, 4th floor (Denver Chamber suite)--(Denver Chamber of Commerce Building).

Other meetings were announced to take place during the session and Amy announced that the Legislative session would begin 1/13/10:

January 29, 2010, 1:30 PM	April 16, 2010, 1:30 PM (third Friday)
February 19, 2010, 1:30 PM (third Friday)	May 21, 2010, 1:30 PM (third Friday)
March 19, 2010, 1:30 PM (third Friday)	

Adjournment: There being no further business to come before the committee, Gary Debus adjourned the meeting at 2:35 PM, December 3, 2009.

Respectfully submitted,

J. Kevin Moore, Secretary

CLAC MEMBER/DELEGATE ATTENDANCE RECORD:

Member/Meeting:	1.16.09	2.20.09	3.20.09	7.28.09	9.29.09	11.3.09	12.3.09	1.29.10
Bobb, Andrea	X		X	X		X	X	
Cowell, Jim	X	X	X	X	X	X		
Debus, Gary	X	X		X	X	X	X	
DeLisio, Carmine	X	X			X	X	X	
Foley-Healy, Molly		X		X	X	X	X	
Goff, Pam					X	X	X	
Graf, David	X		X	X	Exc	X	X	
Hoehn, Robert	X	X	X	Exc	X	Exc	Exc	
Jordan, Lynn	X	X		X	X	X	Exc	
Karpuk, Deb	X		X	Exc	X			
Krohlow, Kent	X		X	Exc		Exc	Exc	
Kutzer, Jeff					X	X	X	
Leff, Suzanne	X	X	X	X	X	X	X	
Lukasik, Walt	X	X		Exc		X	X	
McIntyre, Jason					X	X	X	
Moore, Kevin	X	X	X	X	X	X	X	
Orten, Jerry	X	X	X	X	X	X	X	
Pacetti, Chris	X	X	X	X	X	X	X	
Tobey, Gary	X		X	X	X	X	X	
Wilderotter, Pat	X	X	X	X	X	X	X	
Witt, Jesse	X		X	X		X	X	

Attendance Policy:

A LAC delegate who has three consecutive unexcused absences (as determined by the LAC's officers) from LAC meetings may be removed by a majority vote of the LAC at a meeting where a quorum is present provided the LAC chair notified the delegate and his or her chapter, if applicable, in writing following the delegates second unexcused absence that a third consecutive absence may result in the delegate's removal.