

Colorado Legislative Action Committee (CLAC)
Minutes-September 29, 2009

*Westridge Recreation Center-Highlands Ranch
 9650 Foothills Canyon Blvd, Highlands Ranch, CO*

Call to order – 1:35 PM-Chair Chris Pacetti

Attendance-Members/Delegates:

Cowell, Jim	Hoehn, Robert	Moore, Kevin
Debus, Gary	Jordan, Lynn	Orten, Jerry
DeLisio, Carmine	Karpuk, Deb	Pacetti, Chris
Foley-Healy, Molly	Leff, Suzanne	Tobey, Gary
Graf, David		Wilderotter, Pat

Guests:

<i>NEW DELEGATES-AWAITING NATIONAL APPOINTMENT:</i>	Aponte, Ruth; Aponte & Busam Public Affairs
Goff, Pam	Conklin, Steve; ED-Rocky Mtn Chapter
Kutzer, Jeff	Daigle, Sue, TMMC Management Co. (sue.daigle@tmmc-management.com)
McIntyre, Jason	Larson, Tim, Westwind Management Group (tim@westwindmanagement.com)

Conflict of Interest Disclosure: Chair Chris Pacetti called the meeting to order at 1:35 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: Attendees introduced themselves & some CLAC members made donations to CLAC.

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

Lobbyist Contract Renewal:

Chris announced that Aponte-Busam had extended a contract offer at the same price, \$27,000. Several people commended the skills of the lobbyists. A unanimous motion to renew the lobbyists contract for \$27,000 passed.

Manager Credentialing – update

The Chair introduced Sue Daigle and Tim Larson who presented CLAC with an update from the manager credentialing task force. Tim explained the view of the task force is that due to the large exposure that CIC's have and the responsibility that managers undertake, it is the task

force's feeling that some degree of professional standards must be achieved and consequent certification by a government agency should be pursued. He pointed out the risk of embezzlements. He pointed out that Attorneys, CPA's and even Hair dressers are licensed and conveyed that it was the feeling of the task force that community managers should be likewise. Sue added that an important component of such licensure would be an adequate and proper system of discipline/revocation to achieve accountability. Tim indicated that the task force would like to have a concept in place before some 'external force' made a 'movement' to license managers (similar to SB 100). They indicated that the task force recognizes that any State/Legislative action is in the purview of CLAC. They added that the task force had been working on this issue for years (since the 1990's). Some results of a 3 year old survey were distributed. Sue indicated that there had been 130 'manager' responses and 50 'Board member' responses received. She was uncertain as to the number sent out. She indicated they (task force) wanted to re-do and re-take the survey, add more questions and obtain far more Board responses. Several members of CLAC raised various issues:

Jerry Orten	The CO General Assembly has shown a decided reluctance to license the many groups that come before it seeking licensure and the community managers has attempted this (licensure) in 1990 only to be rebuffed. He indicated that efforts in 1990 followed embezzlements. He offered as an example of the legislative reluctance and difficulty in passage of such an issue is that the Mortgage Brokers had just succeeded after a 10 year legislative effort. Pointed out that a key thing that CLAC needs to be concerned about is whether such legislation is feasible & would pass & expressed related concerns.
Lynn Jordan	Didn't recall attempts at licensure in 1990. Supported licensure.
Suzanne Leff	Several questions relating to survey, participation and methodology
Kevin Moore	Reported records at the State Legislature & DORA indicate that licensure was attempted in 1990 but managers were told to 'self regulate'. Transmitting these results to Licensing task force was unsuccessful. Had questions relating to 75% preference of managers for self-regulation & consequent issue - why is CO pursuing government regulation. Questioned why task force was representing that licensure would prevent embezzlement as it clearly does not for Attorneys & CPA's.
Gary Debus	Expressed strong desire to see task force develop and maintain a 'matrix' of all the various concepts and sub-concepts (including those expressed by CLAC [including today]) and the answers or solutions to those issues.
Molly Foley-Healy	Explained that she & CAI-national had supported the efforts of this task force when she was at CAI national.

CLAC members thanked Sue and Tim for their extensive work on this issue.

Jerry Orten made a motion for CLAC to support the general concepts that had been outlined by Sue and Tim with the caveat that the task force report back to CLAC on a frequent basis (every 2-3 months) on their work. Jerry also acknowledged Gary Debus' request for inclusion of a matrix and treated that as a friendly amendment. The motion carried unanimously.

Legislative up date: The presentation was made by Chris Pacetti and Ruth Aponte.

Thanks was expressed to Ruth for maintaining their contract at the same price for the upcoming year. Ruth Aponte gave a 'wellness' status report on Amy Redfern who had been

serving as CLAC's lead lobbyist. She reported the general nature of Amy's injuries in a horse riding accident and indicated that Amy is continuing to recover and it is expected that Amy will be fully 'up to speed' sometime this fall.

Lender-Superlien issues:

Ruth reported that a 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. The meetings have been facilitated by Jim Benjamin, a RE attorney and CBA RE lender. Jerry Orten, Chris and Ruth had largely been representing CLAC at these meetings. There appears to be a desire by the lenders to clarify a fair and accurate

Jerry Orten made the remainder of this presentation and distributed a handout summarizing the two year process with the group. A summary of the latest issues is:

Possible solutions proposed by first lien lenders:

- Clarify that only one super lien can be sought, ever, as to an existing first lien lender.
- Bifurcate the foreclosure of the superlien from the foreclosure of the HOA's second lien
- Require first lien lenders to record notices of assignment of the loan (this is not current practice of first lien holders.)
- Determine how first lien lenders are to receive notice of an HOA judicial foreclosure.
- Clarify whether attorney fees can be added to the super lien when the lender has become the owner.
- Possible escrows for the super lien, private or public.
- Determine a means to regulate assignment of assessment liens, particularly assignment of zero balance super liens.

At least one additional meeting of the group is anticipated with likely further answers and developments to occur at that meeting. Some discussion and questions from CLAC occurred.

Senator M. Carroll concerns over HOA collections:

Senator Carroll has contacted our lobbyists with some concerns over Associations being unable to collect dues due to foreclosure issues and the consequent inability of the HOA's to provide services. A discussion ensued with various suggestions for assisting Sen. Carroll including the HOA roundtable. A need for legislative change was not envisioned. An envoy group was designated to work with Morgan Carroll on this issue; Steve Conklin, Jim Cowell, Jerry Orten, and Chris Pacetti.

Recession vegetable gardens:

A rumor was heard by the lobbyists that some members of the current majority party had concerns over some HOA's not permitting owners to plant vegetable gardens to combat recessionary effects. The lobbyists will continue to pursue to attempt to ascertain the precise source. Several CLAC members offered to assist the lobbyists should the need arise.

Sen. Mike Johnston and HB 1359:

Ruth reported that Sen. Johnston had spoken with her relative to some concerns over the various notification provisions (particularly with time share owners) contained in HB1359.

Rep. Acree and Good Samaritan liability:

The lobbyists were going to contact Rep. Acree and determine if she intended to raise this issue of 'good Samaritan' liability in this session.

Rep Andy Kerr:

Some discussion ensued that Rep. A. Kerr would likely be interested in HOA's again in 2010 but his thoughts are unknown.

Administrative portion-2009-2010 membership, financials, minutes:

COMMITTEE/SUB-COMMITTEE/TASK FORCE REPORTS:

- **Fundraising (Law day):** Chris Pacetti reported that Deb Karpuk had done a significant amount of work on a proposed 'Legislative/Law day'. Deb asked for a series of Attorney and Reserve Study volunteers and some consensus on dates & indicated that such a fundraising effort could net around \$5000. Many CLAC members expressed their appreciation to Deb for her efforts. Jerry Orten followed by Jim Cowell raised the issue that such education is primarily the role of the two chapters and CLAC should not 'step on the chapter's toes.' Jim Cowell expressed his feeling that such an event should be called 'Law day' and that So. CO did not have a license on that term. Discussion ensued that the chapters could hold such an event with CLAC assistance and support and dedicate the \$\$ results to CLAC.

Kevin Moore made a motion that the Chair write a letter to both of the chapters and take all necessary appropriate action to set the concept in motion (including transmittal of the proposed program). The motion passed unanimously.

- **Public Relations:** Pat Wilderotter reported that several 'call in' days with Channel 9 had been scheduled & thanked Jerry Orten for his service.

Gift for Chairman Pacetti:

A small gift was presented to Chris Pacetti from CLAC members to thank him for his service as Chair.

New & Renewal delegates:

Chris Pacetti distributed a list of the 18 current CLAC delegates who had all expressed an interest in renewing their terms. A motion was carried unanimously to recommend all 18 names to CAI-national for appointment.

The delegate recruiting and screening committee reported their recommendation to admit 3 new members to CLAC. Some questions arose over the overall limit from Lynn Jordan but Chris explained that national (Fortin) viewed this as a 'soft' limit. A motion was passed unanimously to recommend the 3 new delegates (Jeff Kutzer, Pam Goff & Jason McIntyre) to CAI national.

Election of CLAC officers:

Chris announced that after a significant amount of effort a slate of candidates had been found and Jerry Orten made the nomination for the 2009-2010 officers. Gary Debus, Chair; Jerry Orten, Vice-Chair; Chris Pacetti, Legislative Liaison; Kevin Moore, Secretary and Jim Cowell,

Treasurer. Jim Cowell declined and moved to revise the nomination to include Lynn Jordan as Treasurer. The revised nomination carried unanimously.

Minutes: The minutes, as twice previously electronically transmitted for the July 28, 2009 meeting were approved unanimously and entered into the record.

Financial reports: The 'revenue and expense report' dated 6/30/09 was distributed and presented by Lynn Jordan. Lynn explained that the unrecorded receivable from the Rocky Mountain Chapter in the amount of \$5000 had been collected and the 'cash on hand' (\$11,009) shown on the statement had hence increased to approximately \$16,000 and then decreased to approximately \$10,000. Due to some confusion, Lynn indicated she would distribute a current Balance Sheet via Email. On motion of Jim Cowell, the report was accepted and entered into the record.

The budget for the year ending June 30, 2010 was presented by Lynn Jordan. There were a number of questions regarding the 'special events' and 'contingencies' categories. After some discussion Gary Debus' motion to adopt the budget for 2010 passed unanimously.

Next meeting: The date and time for the next meeting was announced as Tuesday, November 3, 2009 @ 1:30 PM at a Highlands Ranch location to be announced.

Adjournment: There being no further business to come before the committee, Chris Pacetti adjourned the meeting at 3:43 PM, September 29, 2009.

Respectfully submitted,

J. Kevin Moore, Secretary

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CLAC MEMBER/DELEGATE ATTENDANCE RECORD:

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