

2009 Colorado Association of REALTORS® Legislative Review



MESSAGE FROM TOM KENYON 2009 CAR LEGISLATIVE POLICY COMMITTEE

The 2009 legislative session will go down in history as one of the most grueling. It was a challenging session, characterized by massive budget cuts and numerous lawmakers leaving office.

CAR advocated against numerous efforts to change local government land use authority, rent control and negative impacts on the real estate market in general. CAR also fought to ensure that real estate owners and investors dealing in 1031 Exchanges were protected from deceptive trade practices, and successfully advocated for official foreclosure reporting by the Division of Housing – ensuring a regular and accurate assessment of foreclosure data in Colorado.

Help for people facing foreclosure and mortgage fraud controls continued to be a hot topic for lawmakers. Affordable housing, while remaining a legislative priority, did not see any progress due to plummeting state revenues. Overall, CAR's goals of maintaining an environment that ensures our economic vitality remains healthy were accomplished.

The Colorado Association of REALTORS® (CAR) 2009 Legislative Policy Committee (LPC) sought to adhere to the goals set forth by its Legislative Policy Statements. The 2009 Policy Statements, approved by the Board of Directors, establishes guidelines to support legislation which ensures economic vitality, provides jobs and housing opportunities, preserves the environment, protects property owners, and builds better communities.

Members of the LPC actively participate in various subcommittees to review and recommend action on specific bills that fall into these guidelines. There were 43 active and committed REALTOR® members on the LPC this year – representing local boards and associations across the state. Both Commercial Brokers and Residential REALTORS® were well represented.

As the gavel went down on May 6, 2009 at about seven o'clock at night, in each chamber of the General Assembly, CAR had actively reviewed 69 bills and took a position on 41 of them. We accomplished much but there are still issues requiring our attention between now and the 2010 session.

REALTORS® will most likely endure continued attempts to meddle with real estate transactions and contracts, and efforts to usurp local control of land use decisions. It is absolutely crucial that we strive to take proactive stances on these and any other issues that are important to us while continuing to be the voice for real estate in Colorado.

A handwritten signature in blue ink that reads "Tom Kenyon". The signature is fluid and cursive.

Tom Kenyon
Chair, 2009 Legislative Policy Committee



TOP ISSUES

REGULATORY

CAR believes strongly in legislation aimed at protecting the ability to own, use, and transact real estate, taking great interest in the state of our industry. Several pieces of legislation during this past session dealt with regulatory issues.

HB 1091 – Concerning Carbon Monoxide Alarms in Residential Properties – The Act covers all new residential construction and existing single-family and multi-family housing units offered for sale, transfer or rent.

Beginning July 1, 2009, a seller of residential real property containing a fuel-fired heater or appliance, a fireplace, or an attached garage will be responsible for assuring that a carbon monoxide alarm is properly installed within 15 feet of the entrance to each room lawfully used for sleeping.

CAR worked with the bill sponsors to include favorable language indemnifying REALTORS® from liability. One result is that no person shall have a claim for relief against a property owner or their authorized agent if a carbon monoxide alarm is installed in accordance with the manufacturer's published instructions.

CAR President Amy Dorsey, Education Foundation Chair Fran Krumpholz, and CEO Bob Golden participated in the bill signing ceremony in March.

Position: Support

Status: Signed by Governor on March 24, 2009

HB 1197 – Concerning Foreclosure Reports by the Division of Housing – National foreclosure reporting companies may report a foreclosed property as many as two to three times between the notices of election and demand, and at the point of a public trustee sale, thereby inflating foreclosure figures. CAR worked to pass HB 1197, which requires the Colorado Division of Housing to collect and report residential foreclosure data from each county. The bill establishes a quarterly report to be used as the State's official data when citing foreclosure statistics, creating a regular and accurate assessment of foreclosure data. REALTORS® believe this positive step allows foreclosure prevention programs such as the Colorado Foreclosure Hotline to better utilize

their limited resources. Moreover, it helps restore consumer confidence in the housing market, a condition necessary for economic recovery in Colorado and across the country.

Position: Support

Status: Signed by Governor on April 3, 2009

SB 28 – Concerning Limits on Real Estate License Fees – In November of 2008, the Colorado Division of Real Estate (DRE) doubled many of its license fees and quadrupled one. Although CAR believes maintaining an active, well-funded and efficient DRE is essential to protect the public interest, REALTORS® deserve adequate notification and proper justification when new fee increases are proposed. As introduced, SB 28 sought to limit the increase in real estate license fees to no more than 20% annually and no more than 50% between sunset reviews of the Division or in a 10-year period, whichever is greater. Furthermore, the bill would have required the DRE to provide REALTORS® with adequate notification and justification if necessary.

CAR worked diligently to pass the bill. CAR President Amy Dorsey testified before the Senate State Affairs Committee. Although the bill was eventually defeated, CAR had the opportunity to tell our story and promote REALTOR® interests. CAR knew this would be a tough fight and will continue its involvement in the direction and activities of the Colorado Real Estate Division and Commission.

Position: Support

Status: Postponed Indefinitely (PI'D) on February 9, 2009

HB 1247 – Concerning Residential Energy Disclosures – As introduced, HB 1247 stated that a seller must provide the buyer with 12 months of energy billing and usage history for the property within 5 days of the property being sold. In February, CAR launched a state-wide Call for Action in opposition to the bill unless it was amended to reflect that a seller was only to provide the information upon a buyer's request.

CAR expressed concern that HB 1247 would have created an unnecessary mandate on an already common practice among REALTORS® and may have left buyers with a false sense of assurance relating to the home's energy usage. Over 1200 REALTORS® participated in the initial

Call for Action. HB 1247 was partially amended to include the favorable language, but was postponed indefinitely in light of our other outstanding concerns.

Position: Oppose

Status: PI'D on March 19, 2009

HB 1109 – Concerning the Extension of Foreclosure Protection – HB-1109 expands the definition of a residence in foreclosure to include a property which is the home owner's principal residence and is at least 30 days in default. This expansion allows for these properties to be covered under the Colorado Foreclosure Protection Act.

The Act is effective July 1, 2009, and applies to residential properties subject to mortgage loans that are delinquent or in default on or after said date. HB-1109 does not affect the filings of a Notice of Election and Demand (NED). NEDs may still be filed by the respective lending institutions. Nothing in HB-1109 or the current Colorado Foreclosure Protection Act imposes on a seller an obligation to disclose that they are delinquent or in default in their mortgage before a NED is filed.

Position: Neutral

Status: Signed by Governor on March 20, 2009

LAND USE

CAR supports legislation which protects private property rights, including notification to surface owners, eminent domain and condemnation issues, and local control of land use planning.

HB 1106 – Concerning the Codification of Pending Ordinances – HB 1106 sought to authorize a local government to adopt or enforce a pending regulation as it relates to local land use development codes. The legislation specified that an application for development or request for land use approval would be subject to any pending law, rule, resolution, ordinance or other regulation of local governments at the time that the application or request is submitted.

HB 1106 would have created unprecedented regulatory uncertainty in the application process for real estate brokers and developers by providing local governments with the power to retroactively affect land use decisions and



the ability to halt development. CAR worked with our industry partners and the larger business community to defeat this legislation.

Position: Oppose

Status: PI'D on February 5, 2009

HB 1259 – Concerning the Imposition of Impact Fees by Local Governments

– HB 1259 would have expanded the authority of a local government to charge impact fees on new development within its jurisdiction, including fees on behalf of a school district or other special district. Additionally, the bill sought to remove language which stipulates that the fees must be “directly” related to the proposed development and replace it with a “reasonably” related standard.

CAR opposed the legislation on the basis that it would have increased uncertainty throughout the development process. Both Bonnie Arnold of the Summit Association of REALTORS® and Jack Fox, CAR Government Affairs Division VP, expressed our concerns before the House Finance Committee, contributing to the defeat of this anti-growth legislation.

Position: Oppose

Status: PI'D on February 18, 2009

HB 1327 – Concerning Modification to the Urban Renewal Law

– HB 1327 would have modified the urban renewal statute in three major ways: First, requiring urban renewal authorities (URAs) to notify and submit an impact report to all taxing entities (special districts, counties, etc.) located within the urban renewal area if tax increment financing (TIF) were to be used to finance the urban renewal project; second, requiring a URA to finance any “significant” shortfall in projected revenues of the taxing entities; third, absent an intergovernmental agreement that provides otherwise, require a URA to arbitrarily allocate 50% of the TIF revenue to each taxing entity beginning five years from the date the plan is adopted. CAR supports and encourages the collaboration between URAs and taxing entities. However, the added requirement that the URA finance any significant shortfalls in revenue is troubling. Moreover, if URAs are required to give 50% of the TIF revenue to the taxing entities, they will not have enough money to finance their projects. URAs are a critical element of our state’s ability

to properly redevelop areas by eliminating slum and blight, and their projects generate jobs and increase sales and property taxes. HB 1327 would have removed their ability to perform this critical role for our communities.

Position: Oppose

Status: PI'D on April 30, 2009

HB 1284 – Concerning Corridor Capacity Strategic Planning

– HB 1284 sought to create a process whereby CDOT, MPOs and their member local governments develop a corridor capacity strategic plan with the stated goal of preserving transportation capacity and efficiency in areas projected to become congested due to future development.

While REALTORS® certainly recognize the benefit that such planning provides to congested corridors, HB 1284 would have effectively given CDOT control over local development and would have allowed the state to intervene in local land use decisions. CAR has traditionally advocated for local control of land use planning because we believe local governments know best the needs of their communities. This legislation would have created uncertainty, lengthened the planning process and driven up the costs of development. CAR launched a successful Call for Action to targeted Senate districts, urging REALTORS® to contact their lawmakers in opposition to the legislation.

Position: Oppose

Status: Died on Second Reading in the Senate on April 30, 2009

BUSINESS, TAX & HOUSING:

A vibrant economy creates jobs, expands the tax base, and enhances and revitalizes communities. CAR closely monitors legislation which affects economic vitality and business competitiveness.

SB 085 – Concerning Business Personal Property Tax

– As introduced, it sought to phase out business personal property tax on equipment and business-related property beginning in tax year 2009 and continuing through 2027. State assessed personal property was excluded from the provision of the bill.

Under current law, a business is exempt from paying property taxes on its personal property

if the actual value of its equipment is less than \$4,000. The threshold for the exemption rises to \$7,000 by tax years 2013 and 2014.

As a group representing the interests of thousands of small business owners across the state, CAR sees great benefit to exempting this onerous tax. Although SB 85 was ultimately amended to be an informal study of the economic benefits of tax exemption, CAR is pleased this issue continues to receive attention.

Position: Support

Status: Awaiting Action by Governor

SB 276 – Concerning the Suspension of Property Tax Exemptions

– Eliminates the homestead property tax exemption for qualifying senior citizens for 2009 and 2010 property tax years. The legislation was one among several efforts by state lawmakers to help balance the state budget.

REALTORS® maintained that the legislature should not depend on seniors and veterans who may be on fixed incomes to help balance the budget in this economic climate. The bill was amended to leave the property tax exemption for veterans intact.

Position: Oppose

Status: Awaiting Action by Governor

SB 246 – Concerning Damages Relating to Construction Defects

– Sought to award moratory interest (interest paid as damages for a delay in performing an obligation) to claimants in residential construction defect cases from the time the property is closed upon, until the time judgment is rendered. The bill would have allowed for 6% interest to accrue from the time of closing until the date a claim is filed and would have permitted 8% interest between the date a claim is filed and the time judgment is rendered.

CAR expressed concerns relating to additional costs of litigation – costs which would ultimately be passed along to the homebuyer – and the negative impacts it would have on the development of new mixed-use, transit-oriented, multi-family, and affordable housing units.

Position: Oppose

Status: PI'D on April 3, 2009

WATER:

REALTORS® recognize that one of the most important elements of our quality of life is the protection of the environment, including water, air quality, parks and open space.

HB 1067 – Concerning In-stream Flow Tax

Incentives – Allows a taxpayer to claim a tax credit for a water rights donation that works to protect the natural environment by keeping water in the river. The maximum allowable credit is \$250,000 and is applicable for income tax years 2009 through 2014.

CAR is confident that HB 1067 will benefit both the affected property owners and the waters of the state. Additionally, the bill seeks to protect in-stream water flows, which will aid wildlife habitat and the environment.

Position: Support

Status: Awaiting Action by Governor

HB 165 – Concerning Drinking Water Waste-water Small Grants – Allocates \$10 million per year that would otherwise be credited to the perpetual base account of the severance tax trust fund to the newly created Small Communities Water and Wastewater Grant Fund.

The monies will be allocated from existing and projected revenue funds which are expected to grow.

The bill also directs the Department of Public Health and Environment to make grants from the fund to governmental and not-for-profit public water systems and counties representing unincorporated areas that serve a population of not more than 5,000 people for the planning, design, and construction of drinking water or water treatment systems.

Property values often suffer if those properties are dependent on inadequate drinking water and water treatment systems. CAR supported this effort to improve such facilities, which many rural communities cannot afford – even though they are mandated by law to do so.

Position: Support

Status: Signed by Governor on April 22, 2009

SB 080 – Concerning Precipitation Collection, Limited Expenses – Allows for the collection of precipitation from up to 3,000 square feet of a roof of a residence that is not connected to a domestic water system serving more than 3 single-family dwellings.

Under the provisions of the bill, the water collected must be used for: ordinary household purposes, fire protection, watering of animals/livestock, and irrigation of not more than 1 acre of gardens and lawns.

This proposal assists property owners in areas where residences lack modern water infrastructure and would aid several regions of the state which experience minimal precipitation levels or suffer well-water shortages.

Position: Support

Status: Signed by Governor on April 22, 2009

Thank You!

SPECIAL THANK YOU TO LPC MEMBERS, LEADERSHIP AND STAFF

Members of LPC come from all corners of the state and actively participate in various subcommittees to review and recommend action on specific bills. There were 43 active and committed REALTOR® members on the committee this year. CAR depends on countless volunteer hours from its devoted members to be successful. Your hard work and dedication demonstrates that you truly care about your profession and the future of the industry in which you work – Thank you!

2009 COLORADO ASSOCIATION OF REALTORS® LEGISLATIVE POLICY COMMITTEE

Metro District: Ryan Anderson, Sunny Banka, Ann Connelly, Gary Davis, Lynne Derby, Joe DiVito, Joyce Lang, Bob LeGare, Mary Lou O'Donnell, Barbara Riley, William Roberts, Ed Shackelford, Matthew Svendsen, Mark Trenka, Gil Vasquez and Alys Veal

Mountain District: Jason Brewer, Jo Brown, Matthew Hintermeister, Carol Hood, Janene Johnson and Mark Stine

Northeast District: Kurt Albers, Ken Anderson, John DeWitt and Carol Schack

Northwest District: Vicki Burns, Lois Dunn, Tom Kenyon, Floyd Magee and Rebecca Neill

Southeast District: Jack Beuse, Dana Duncan, Drew Lamoreux, Flo Mendez-Beatty and Tony Rose

Southwest District: Mark Donahue, Gloria Haines, Leila Hanson, Gina Piccoli, Margy Robertson and Frank Schiro

Subcommittee Chairs:

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Land Use – Leila Hanson

Regulatory – Sunny Banka

Water – Margy Robertson

Leadership/Staff:

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CAR President-elect George Harvey

Division VP Jack Fox

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