 MESSAGE FROM JACK BEUSE  
2012 CAR LEGISLATIVE POLICY COMMITTEE

The 2012 legislative session, again, required both major political parties to cooperatively govern as the Democrats controlled the Senate, and Republicans the House. This split maintained CAR's ability to defeat some well-intentioned yet potentially harmful legislation for the real estate industry. The session, unlike previous ones, was marked with more promising budget projections; permitting the legislature to restore the Senior Homestead Exemption on property taxes. Other highlights of the session include a proposal to require the testing and disclosure of radon hazards, a bill designed to create wind energy property rights, further attempts to statutorily alter the voluntary relationships between both lenders and borrowers and landlords and tenants, and most importantly, the passage of prudent regulations for Appraisal Management Companies (AMCs).

CAR successfully advocated against efforts to mandate radon testing and disclosure solely on residential resale transactions, an attempt to require loan modifications and/or mediation between the lender and borrower prior to any foreclosure actions, another attempt to alter Colorado’s landlord/tenant statutes, and negative impacts on the real estate market in general. This session, CAR passed a joint resolution heralding the continued benefits of homeownership, successfully advocated on behalf of the ongoing legislation to regulate AMCs, and was pleased the legislature found a way to reduce the impacts of the onerous Business Personal Property Tax; two measures which will improve and protect the integrity of real estate transactions and enhance Colorado’s ability to recruit and retain businesses during these tough economic times. Overall, CAR's goals of maintaining an environment that ensures our economic vitality remains healthy were accomplished.

The Colorado Association of REALTORS® 2012 Legislative Policy Committee (LPC) sought to adhere to the goals set forth by its Legislative Policy Statements. The 2012 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 within these guidelines. There were 37 active and committed REALTOR® members on the LPC this year – representing local boards and associations across the state. Both commercial and residential REALTORS® were represented.

As the gavel went down on May 9, 2012, in each chamber of the General Assembly, CAR had actively reviewed 44 bills and took a position on 21 of them. We accomplished much but there are still issues requiring our attention between now and the 2013 session.

REALTORS® will most likely endure continued attempts to meddle with real estate transactions and contracts, renewed attempts to mandate energy ratings on commercial buildings and residential rental properties and efforts to create on-bill financing programs which may lack accountability and mandate the assumption of liens by future homebuyers. We will also be continuing discussions with our industry partners to address issues with title company work on real estate-owned (REO) transactions. As always, 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.

Lastly, CAR would like extend our deepest gratitude to Representative Tom Massey and Senator Cheri Jahn for sponsoring HJR-1009. We are also extremely grateful to Representative Angela Williams and Senator Morgan Carroll for sponsoring HB-1110. There were also many other legislators that deserve our heartfelt appreciation for their dedication to Colorado and REALTOR® interests. However, there is one outgoing legislator that we would specifically like to thank for his many years of service, both to Colorado and on behalf of REALTORS®. Representative Tom Massey, one of my predecessors, has admirably served Colorado for the past eight years. He achieved many legislative accomplishments during his tenure, and his absence will be felt by both our state and our membership. Representative Massey, we wish you all the best in your future endeavors. On behalf of REALTORS® across Colorado – Thank you!

Jack Beuse  
Chair, 2012 Legislative Policy Committee
BUSINESS TAXATION & 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:

HJR-1009 – Concerning the Benefits of Homeownership – HJR-1009 recognizes the social and economic benefits of homeownership to our families, communities, state and nation, and encourages public policies that support sustainable homeownership. This resolution was both a way for us to communicate to state policymakers our message that homeownership matters, and for our legislature to communicate to Washington policymakers their endorsement of federal policy to sustain homeownership.

Position: Support

Status: Signed by Speaker of the House and Senate President

HB-1237 – Concerning Common Interest Community HOA Records Copies – This bill identifies a list of the records that must be maintained by a unit owners’ association of a common interest community. With certain exceptions, all records maintained by the association must be available for examination and copying by a unit owner or the owner’s authorized agent. The bill allows the association to impose a reasonable charge to cover the costs of labor and material for copies of association records.

Position: Neutral

Status: Signed by Governor

HB-1029 – Concerning an Economic Stimulus through a Property Tax Exemption on Business Personal Property – Under the bill, counties, municipalities, and special districts are allowed to negotiate Business Incentive Agreements (BIAs) with taxpayers that establish new business facilities within their jurisdiction for up to 100 percent of the amount of taxes levied on business personal property within the entities jurisdiction.

CAR has been a long-time advocate of reducing the impact of Business Personal Property Taxes on small businesses. This bill will give counties the ability to provide much needed tax relief for Colorado’s businesses, and allow counties to implement this legislation to help recruit new businesses to Colorado while helping existing businesses grow.

For all of these reasons, we were pleased to learn that Governor John Hickenlooper signed HB-1029 into law.

Position: Support

Status: Signed by the Governor

HB-1237 – Concerning Common Interest Community HOA Records Copies – This bill identifies a list of the records that must be maintained by a unit owners’ association of a common interest community. With certain exceptions, all records maintained by the association must be available for examination and copying by a unit owner or the owner’s authorized agent. The bill allows the association to impose a reasonable charge to cover the costs of labor and material for copies of association records.

Position: Neutral

Status: Signed by Governor

SB-71 – Concerning a Requirement to Pursue Loan Modification Remedies before Foreclosing – Prior to initiating or completing the process of foreclosure on residential real property containing four or fewer dwelling units, SB-71 would have required the lender to make and fully document its efforts to: contact the borrower directly; fully assess the eligibility of the borrower, the property, and the loan for any available public or private loan modification programs or other foreclosure alternatives; pursue and place the borrower in foreclosure alternatives if the borrower is eligible and the lender’s interests can be protected; communicate with, and inform, the borrower about impending deadlines and the consequences of missing them at every major step of the foreclosure process; provide specific information to the borrower regarding eligibility for foreclosure alternatives and any determination regarding the borrower’s foreclosure status; and abide by the terms of any offer of modification it makes, if the borrower signs and returns documents containing those items.

Additionally, a borrower would have had until seven business days before a scheduled foreclosure sale to submit a foreclosure alternatives application packet. After making such application, the borrower could have disputed the outcome of the lender’s review – effectively prolonging the foreclosure process and inhibiting the property from being absorbed in the market.

CAR has been supportive of efforts to address the problems associated with the lending and foreclosure processes, including the regulation of mortgage brokers, advocating for the use of foreclosure counseling, and contributing to the Colorado Foreclosure Hotline. We believe the eighty percent success rate of the Hotline demonstrates that fostering discussion between willing borrowers and lenders is the best way to alleviate the problems associated with delinquency and foreclosure.

Position: Oppose

Status: Postponed Indefinitely

SB-87 – Concerning the Accrual of Interest on Property Tax Refunds – Under current law, any property taxes illegally or erroneously collected, and delinquent interest on that collection, must be refunded to the taxpayer. Generally, interest on the refunded money accrues from the date payment of the taxes and delinquent interest was received by the county treasurer. Under SB-87, interest on the refunded money would have begun to accrue either from the date a complete abatement petition is filed with the board of county commissioners or the date the taxes were paid, whichever is later.

SB-87 would have reduced the amount of time that interest accrues, for which a county must refund the overpaid property tax plus interest and was designed to reduce county expenditures. We argued this bill would have swung the pendulum well in favor of the counties and reduced their incentive to resolve tax disputes in a timely manner. We further argued that the bill would have disproportionately affected smaller property owners – smaller property owners, often times, do not have the means to hire a tax agent or any other surrogate to handle their tax disputes – and any money owed to property owners that is either tied up in a dispute, or reduced because of the tolling of interest is money that taxpayers could ultimately use to invest in their properties, or in other properties, which would provide jobs for our economy.

Position: Oppose

Status: Deemed Lost
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 the past session dealt with regulatory issues.

HB-1110 – Concerning Regulation of Appraisal Management Companies – HB-1110 establishes a licensing program for AMC’s in the Division of Real Estate. CAR worked diligently to include and maintain the requirement that AMCs abide by the Uniform Standards of Professional Appraisal Practice (USPAP), which will dictate that AMCs only give appraisal assignments to appraisers in markets where they are geographically competent. This is vitally important to real estate transactions and REALTORS® have reported that AMCs have given appraisers assignments in areas where they lack geographic competency. CAR members have found their work product in these instances to be substandard due to their lack of local market knowledge, which was creating deleterious effects on transactions. The bill also requires that applicants for a real estate appraiser license, registration, or certification submit to a fingerprint-based criminal history background check.

The federal government requires AMC regulation as part of the Dodd-Frank banking reform bill, and states are required to adopt AMC regulation before the end of 2013. If Colorado had failed to adopt proper regulations, licensed Colorado appraisers would have become unable to appraise any federally-backed loans, effectively eliminating such loans in Colorado.

Position: Support
Status: Signed by Governor

HB-1165 – Concerning the Disclosure of Radon Hazards Information – Just as a book should not be judged by its cover, this bill cannot be judged by its title. HB-1165 would have required the Seller in residential resale transactions to conduct a test of the property for radon hazards in accordance with testing procedures approved by the Colorado Department of Public Health and Environment. Documentation of the test findings would have been required to be disclosed to the Buyer. Any presence of a radon hazard above the safety level would have constituted cause for mitigation of the hazard, with the cost of mitigation to be negotiated between the Seller and the potential Buyer.

CAR initially worked with the bill sponsor to find a compromise. However, upon further deliberation, the LPC voted to oppose the bill. The underlying reason is that any potential Buyer concerned about radon is already permitted to test a home to see if it meets their satisfaction. Further, a Buyer is in the best position to ensure that any testing done is accountable and can be independently and accurately verified. Moreover, the bill only focused on existing homes, excluding new construction and other vulnerable populations such as senior citizens and students living in places where managing accommodations and mechanics are often out of their control.

Position: Oppose
Status: Postponed Indefinitely

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.

SB-97 – Concerning the Streamline Change of Surface Water Diversion Points – SB-97 creates a simplified procedure for applications to change a surface water point of diversion. Under current law, all changes of water rights, including changes in points of diversion, must be adjudicated. The bill allows surface point of diversion changes to be made under a simplified procedure if: the diversion point is not combined with or includes any other type of water right change; there are no other points of diversion between the new point of diversion and the diversion point from which the change is being made; and there are no intervening points of water inflow or discharge.

The bill provides for the presumption that the change will not result in a greater amount of water decreed under the water right; however, this presumption may still be challenged in court.

Position: Monitor
Status: Signed by Governor

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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-1105—Concerning the Creation of Wind Energy Property Rights – The bill establishes that wind energy rights are not severable from the surface estate to real property in Colorado. Under the bill, development of wind energy rights is accomplished through a wind energy agreement, which may be styled as a lease, license, easement, or other grant or reservation, but must be evidenced in the real property records of the clerk and recorder in the county where the subject land is located. The bill also defines the procedure for release from a wind energy agreement that has terminated and for reversion of wind energy rights that have been undeveloped for a continuous period of ten years. HB-1105 clarifies that equipment for wind energy development is not subject to taxation until wind energy production commences.

CAR remained neutral on the bill because it created a new property right in Colorado, akin to water or mineral rights. With a keen knowledge concerning the delicacy of public policy concerning split estates, the LPC has opposed prior attempts to create wind energy rights when they would have been severable from the surface estate. Although our concerns were somewhat eased this session when the proponents determined not to sever any wind rights from the surface rights, some members remained leery of the creation of such rights.

CAR will remain vigilant regarding our concerns as these new wind energy agreements are completed.

Position: Neutral
Status: Signed by Governor

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 37 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!