

Government Affairs Update

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LOCAL

Larimer County

County Commissioner Race: Colorado's Primary is June 30 and both Larimer County Commissioner seats for Districts 2 and 3 have contested races that will be decided in the Primary. The Fort Collins Board of REALTORS® and the Loveland-Berthoud Association of REALTORS® will hold joint Larimer County Commissioner candidate interviews in late July or early August, once those races have been decided. If the associations decide to endorse candidates, those endorsements will be announced to members so REALTORS® know which candidates are friendly to our industry.

Fort Collins

No Council Decision on Hughes Zoning: On May 18 the City Council tied 3 to 3 on a split vote concerning zoning for the former Hughes Stadium parcel after Mayor Pro Tem Kristin Stephens recused herself because of yet another ethics complaint because of her employment with property owner Colorado State University. Mayor Wade Troxell was also named in the complaint but chose to vote on the zoning application because he said he would be absolved of any wrong-doing, just as he and Stephens had been cleared in previous complaints.

City staff had recommended two different zoning densities on the 165-acre property – Low-Density Mixed-Use, and Residential Foothills, which is a lower-density classification. On the first hearing in November 2019, the ordinance passed with Cunniff, Gutowsky and Pignataro voting against it. The issue had been delayed by multiple ethics complaints utilized by neighbors to delay hearings and then by the COVID pandemic.

The latest hearing didn't offer any new information. Opponents lined up to complain about the loss of open space, congestion and traffic. They begged the City to turn the property into open space. City staff reminded the Council that Fort Collins has plenty of open space in the area, and that CSU has no interest in donating the land to the City.

Mayor Pro Tem Stephens announced her decision to recuse herself at the beginning of the hearing, which made the outcome of the vote clear. Mayor Troxell and Councilmembers Emily Gorgol and Ken Summers voiced frustration but had no power to change the vote.

Councilmember Susan Gutowsky's comments were representative of the majority. She said she was influenced by the "tsunami of emails from residents who don't

want development.” She also argued “We have to get past the notion that we can build ourselves into affordability.”

The hearing and its outcome raise several questions. First, why did Kristin Stephens decide to recuse herself knowing her vote could break the tie? The bigger question relates to the concept of leadership. Should elected officials determine their vote according to the squeaky wheel concept?

Leaders should have vision and do what is in the best interest of their community. Voting no on the proposed zoning for the site just because neighbors don’t want development there won’t create more homes in a city with a low inventory and a rising affordability problem.

CSU and Lennar homes have not finalized the sale of the property. Now that the proposed zoning has been relegated to limbo land, it will be interesting to see what happens with the agreement moving forward.

Loveland

Council Moves Forward with Tax: After several discussions, the Loveland City Council voted 8-1 to move forward with ballot language asking voters to approve a one percent sales and use tax increase. The City was facing a \$7 million deficit for its capital projects such as roads and other infrastructure even before the COVID-19 pandemic caused economic chaos.

According to staff, capital expansion fees charged to new developments are not bringing in enough revenue and the City is getting more and more behind. A group chaired by Mayor Pro Tem Don Overcash brought the proposal to raise the sales tax to the Council after a thorough review of Loveland’s finances and a consideration of various remedies.

The Council is well aware that this is not an auspicious time to ask the voters for a tax increase. And after all, a similar proposal failed last year. That alone indicates the severity of the challenge. The Council will finalize the ballot language in July or August. Voters will then consider the question on November 3.

Mayor Marsh cast the sole vote against the sales tax increase. She has consistently called for capturing more tourist dollars to bolster the economy and will continue to vote against any other revenue generation proposals.

COLORADO ASSOCIATION OF REALTORS®

Legislative Update: The Colorado General Assembly will adjourn on June 15. Despite a global pandemic, more than 700 bills were introduced in the 2020 legislative session. The Colorado Association of REALTORS® tracked 89 pieces of legislation and took a position on 49 bills with the direction of CAR’s Legislative Policy Committee(LPC) to protect homeowners, property rights, and the housing industry.

From sunrise to sundown, the remaining days were filled with debate as policymakers took every opportunity to make up for lost time after the temporary pause due to COVID-19. Bills quickly move from committee hearing to the floor as policymakers try to wrap up their work. Legislative proposals have not only made headlines but sparked intensive advocacy from many organizations, all while policymakers faced the challenge of a severely reduced budget.

At the frontlines, the Colorado Association of REALTORS® worked day and night through negotiations to ensure Colorado REALTORS® were heard. It was CAR's strategic deliberation that enabled us to pass long-sought legislation and receive substantial amendments in other legislation to protect our industry and the business operations of CAR members.

In the 2020 legislative session, CAR championed:

SB-096 Remote Notaries Protect Privacy (LPC Position: Support) - Allows a notary public to perform a remote notary using a real-time audio-video communication system that conforms to standards established by rules of the Secretary of State and protects consumer data meaningfully.

Status: On Monday, the House of Representatives unanimously passed SB-096, and although the bill already passed by a unanimous vote of the State Senate on March 11, modifications were made in the House which required Senate consent. The Senate unanimously approved those amendments on Wednesday. The bill will go to Governor Polis for his signature.

HB-1332 Prohibit Housing Discrimination Source Of Income (LPC Position: Amend) - Amends Colorado's Fair Housing laws to include discrimination based on source of income as a type of unfair housing practice. "Source of income" is defined to include any source of money paid directly, indirectly, or on behalf of a person, including income from any lawful profession or from any government or private assistance, grant, or loan program.

Status: CAR obtained a five-unit single family exemption amendment and protections to allow for HUD processing delays and credit check allowances by property owners. The bill will head back to the House today for approval of the Senate's amendments.

SB-108 / SB-224 Landlord Prohibitions Tenant Citizenship Status (LPC Position: Amend) - Prohibits a landlord from using or disclosing information regarding a tenant's citizenship or immigration status, and allows a tenant to bring civil action against a landlord for engaging in such activity.

Status: The original bill, SB-108 was postponed indefinitely with the intent to be included in a larger Covid-19 relief bill. CAR had obtained amendments that would allow a landlord to use social security and tax identification numbers to run a credit

check on potential tenants without violating the legislative requirements if landlords treat all tenants the same in their processes. The new bill, SB-224, resurrected SB-108 after the larger COVID-relief bill moved toward a separate direction. CAR maintained the credit check amendment language and the bill is now in the House for their final consideration today.

HB-1200 Sunset Homeowners' Association Information and Resource Center (LPC Position: Monitor) Continues the HOA Information and Resource Center for 5 years, until 2025. The requirement to participate in administrative dispute resolution which would have cost consumers millions of dollars was removed.

Status: The Senate approved the House version of the bill and it will go to the Governor for his signature.

NATION

TRID Buyer/Seller Clarity: NAR has created a new TRID Closing Disclosures Guide outlining questions related to the separation of buyer and seller Closing Disclosures (CDs) and what is shared with real estate professionals. This new Guide and one-page Summary reflect the latest clarity provided by the Consumer Financial Protection Bureau (CFPB) in their TRID FAQs updated on June 9, 2020.

Questions addressed in the TRID Summary and Guide include lender discretion in issuing combined and separate CDs; the impact of privacy laws on what is shared in the CD and who has access to the CD; and, regulations dictating the information included in the separate CDs. For example, when a lender or settlement agent issues separate buyer and seller CDs, TRID requires seller-paid loan costs (such as real estate commissions) to be disclosed on the buyer CD.

The guides are available here: <https://www.nar.realtor/washington-report/trid-buyer/seller-cd-clarity>

FHA Requires COVID Indemnification: On Thursday June 4, 2020, the Federal Housing Administration (FHA) released Mortgagee Letter 2020-16, requiring lenders to provide 20 percent indemnification for up to two years on borrowers who go into forbearance due to COVID 19.

Specifically, FHA will only insure borrowers who go into forbearance after closing but prior to FHA insuring the loan if the lender agrees to indemnify 20 percent of the original mortgage amount. Lenders would be required to pay if the mortgage goes into foreclosure. FHA will not require upfront payments by lenders or a change to FHA mortgage insurance premiums for these mortgages.

NAR Writes White House: NAR sent a letter to the White House this week, urging further relief during the pandemic. The letter included a number of provisions to help REALTORS® and real estate remain a strong force in our economy. The proposals included:

- Reforms to the PPP program (some of which were subsequently passed into law).
- A reduction in the minimum loan amount for financial relief under the Federal Reserve Main Street Lending Program to allow more small businesses and non-profits to access yet another avenue of financial assistance that may better fit their business needs.
- Support for liability protections for businesses that reopen following Federal and State guidelines.
- Housing relief for renters including emergency rental assistance, as well as relief for rental housing providers.
- Expansion of forbearance and unemployment assistance.
- Reforms to the opportunity zones program to encourage investment.
- Elimination of the marriage penalty in the State and Local Tax (SALT) deduction.
- Support for the remote notarization legislation.

NAR continues to work with the Administration and Congress on common sense solutions that provide relief during these unprecedented times.