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A MESSAGE FROM JANET MARLOW
2022 CAR Legislative Policy Committee Chair

This year’s legislative session was a hard-fought emotional battle that kept our volunteers, staff, and lobbyists very busy as housing policy was front and center, as were many REALTOR® issues at the Capitol in the second session of the 73rd General Assembly. CAR’s Legislative Policy Committee (LPC) took positions on 103 bills, which is the highest number of bills we’ve tracked in recent history.

Many of the economic aftershocks of COVID-19 took center stage under the dome as lawmakers sought to propose solutions and decide how to allocate federal stimulus dollars in the face of rising crime and the rising cost of living. This legislative session was also an interesting one heading into a very busy election season this November with several new and redrawn districts after the Census and independent commission gave Colorado more competitive legislative and congressional seats.

Some of the biggest issues CAR tackled included: negotiating the foreseeable future of property taxes in proposed ballot measures; addressing climate change and green energy in statewide building codes for fire resiliency and green building; mitigating against the dangers of wildfires and the regulatory environment related to the aftermath of the Marshall Fires; and significant affordable housing dollars with American Rescue Plan Act (ARPA) funds.

Record low inventory, rising interest rates, heightened demand, and inflation severely affected Colorado’s real estate market and housing industry coming out of the pandemic. CAR’s Market Trends program was a highly effective advocacy tool that we used to testify about how the devastating housing market was putting pressure on the supply of affordable housing available across our state. We also advocated to ensure affordable homeownership, and housing unit creation were included in more than four pieces of legislation. CAR’s housing statistics were used both in a legislative declaration and multiple times referenced in the Governor’s forecasts on the economic outlook for Colorado.

CAR effectively worked with the Governor’s office and multiple stakeholders to advocate for more than $393 million in affordable housing funding, including a low-interest revolving loan program, grants for local governments to create, preserve, and convert existing housing into affordable housing at statewide average median income (AMI) levels. This approach is one of the first in the nation to attract housing factory jobs and create innovative affordable housing units such as tiny homes, 3D-printing, prefabricated construction panels, while supporting manufactured and modular housing.

CAR again protected the state from enacting rent control in the mobile home park bill. We supported policy that respects TABOR and allows local governments to allocate their lodging taxes in ways that help their civil servant workforces but does not open the door to commercial taxation of short-term rentals. CAR worked feverishly to advocate for the incorporation of affordability definitions and increased local representation in green energy building codes legislation.

CAR’s mission to protect the real estate industry only happens with your support. Our impactful advocacy is predicated on the engagement of 38 LPC members who devoted their time this year to protecting housing and property rights. Thank you to the nearly 30,000 Colorado REALTORS® for your involvement in CAR. Together, we can brighten the future for REALTORS® and your clients.

Janet Marlow
2022 Legislative Policy Committee Chair
Business and Taxation

HB22-1117: Use of Local Lodging Tax Revenue
(LPC Position: Support)


Status: Signed into law by Governor Polis

This bill authorizes local governments to add new ways to allocate the existing lodging tax revenue from hotels or short-term rentals beyond simply the ability to market their tourism to attract visitors to their locality. These lodging tax revenues can now be allocated toward local workforce housing (including seasonal and tourism-industry workers) and those workers’ childcare needs.

Without tourism revenue, many of our local communities would be devastated by lost county or municipal revenue. Businesses need employees to be able to provide valued customer service that makes Colorado the colorful place that people of all walks of life come to work, live, and play. Legislators can now pay it forward to the citizens of Colorado who are facing some of the highest costs of housing and childcare in the country.

SB22-099: Sealing Criminal Records
(LPC Position: Amend)


Status: Signed into law by Governor Polis

The bill was set up as a straight-forward and simple automatic sealing of eligible criminal records such as minor drug offenses, civil infractions, petty offenses, misdemeanors, and a few felonies. However, in this case the devil was in the details on this technical piece of legislation even if it was well intended.

CAR worked diligently to successfully remove a very harmful part of the original bill that would have made it an unfair housing practice if a property manager or housing provider refused to show, sell, transfer, rent, or lease any housing or refuse to transmit a bona fide offer because of the contents of a sealed record. However, it made no sense for housing providers to be found in violation of the Fair Housing Act for any records that they were not able to see because they were sealed. CAR is proud to support the Fair Housing Act, and we believe the playing field needs to be fair as housing providers cannot be held responsible and subject to litigation for information they do not have.
The bill creates the Transformational Affordable Housing Revolving Loan Fund in the Department of Local Affairs’ (DOLA) Division of Housing (DOH). The bill provides flexible, low-interest, and below-market-rate loan funding to make investments in affordable housing and transfers $150 million general fund dollars to the fund on July 1, 2022, that will backfill the federal ARPA dollars Colorado receives. DOLA will establish policies and processes for the revolving loan program, including eligibility requirements, loan parameters, and reporting requirements. Eligible recipients include local governments, community partners, for-profit developers, and political subdivisions of the state. Projects can support the development of infrastructure related to affordable housing development, purchase of land or buildings, new construction of affordable housing, or the preservation of existing affordable housing. The program will be developed with the goal of generating enough financial return to replenish the program for future allocations so we can continually fund affordable housing for multiple generations of Coloradans.

CAR worked with a multitude of stakeholders to add important amendments to improve the legislation by ensuring other types of developers, such as Habitat for Humanity, are eligible entities to receive state funding. These eligible projects increase the supply of new affordable housing including for sale homeownership and the associated pre-development costs such as permit and tap fees, conversion of existing properties, land banking, and mixed income projects that fit higher AMI levels (between 80% -170%) and percentage requirements for each area of the state to ensure that the programs allow for intergenerational wealth creation and a statewide approach.

The bill creates two housing-related grant programs in the Department of Local Affairs (DOLA) funded by $178 million dollars of American Rescue Plan Act (ARPA) dollars. The Local Investments in Transformational Affordable Housing Grant Program provides grants to governmental entities or nonprofit organizations for affordable housing initiatives, including developing housing infrastructure, providing gap financing, maintaining existing and building new affordable housing stock, and land banking. The bill specifies preferences for grant recipients, including how grants must be distributed across the state, and requires DOLA to annually report on the program. The second program that this bill created is an Infrastructure and Strong Communities Grant Program that DOLA, the Colorado Energy Office, and the Department of Transportation (CDOT) work together to a) develop a list of sustainable land use best practices, and b) provide grants to local governments for investments in infill infrastructure projects that support affordable housing.

Again, CAR’s statistics and advocacy took center stage in showing why we need new affordable housing units including for sale homeownership and the associated pre-development costs such as permit and tap fees, conversion of existing properties, land banking, and mixed income projects that fit higher AMI levels (between 80% -170%) and percentage requirements for each area of the state to ensure that the programs allow for intergenerational wealth creation and a statewide approach.
in the nation to attract housing jobs and innovative affordable housing factories to Colorado that many states may emulate. CAR was instrumental in amending the legislation to ensure affordable homeownership production was included.

HB22-1242: Regulate Tiny Homes Manufacture Sale and Install (LPC Position: Support)
Status: Signed by Governor Polis

HB22-1242 is a comprehensive bill that expands the authority of the State Board of Housing in the Department of Local Affairs (DOLA) to promulgate rules by July 1 of 2023 that establish standards for tiny homes that cover the manufacture, assembly, and installation of tiny homes; and uniform foundation construction standards for factory-built structures or tiny homes in areas of the state where no standards exist. The bill exempts tiny homes from sales and use tax to conform to the exemption of manufactured homes and defines tiny homes certified by the Division of Housing in DOLA as residential improvements for assessing property taxes.

The standards for tiny homes will be based upon national and international standards and cover connecting to utilities including water, sewer, natural gas, and electricity. There will be considerations for affordability of tiny homes, allowing for movement, and taking into account custom-built or small-production homes annually, as well as set standards for electrical and plumbing inspections.

HB22-1102: Veterans and Military Status In Fair Housing (LPC Position: Support)
Status: Signed into law by Governor Polis

HB22-1102 adds veterans and military status to the list of protected classes under the Colorado Fair Housing Act. The bill prohibits discrimination against a person based on veteran or military status when showing, selling, transferring, leasing, or renting housing by adding veteran or military status as a basis of illegal housing discrimination.

Access to housing and homeownership for everyone is an important issue for REALTORS®. CAR actively amended HB 22-1102 to ensure that property sellers can consider any type of financing in accepting purchase offers. We also worked with housing stakeholders to clarify that the advertising of a military or veteran housing benefit does not give rise to a claim for discrimination under this legislation and were happy to support legislation that increases access to housing and homeownership for everyone.

HB22-1137: Homeowners’ Association Board Accountability And Transparency (LPC Position: Support/Amend)
Status: Signed into law by Governor Polis

HB22-1137 creates guardrails around how Homeowner’s Associations (HOA) can recover delinquent homeowner assessments by establishing notification procedures for residents and placing limits on how the HOA can pursue late fees and assessments. Late fees or fines cannot exceed $50/day or $500 total and fees for statement printouts or fees intended simply to generate HOA revenue are prohibited.

Once the notification procedures are completed, the HOA may attempt to recover delinquent payments and appropriate costs in small claims court, up to certain limits, but late payments cannot be sent to attorneys or collection agencies without a majority vote of the Board of Directors at a public hearing.

CAR actively supported this legislation and ensured any potential amendments did not hinder existing housing transaction processes. No one should lose their home due to foreclosures based on fees, and in a time when affordable housing is at an all-time low, this displacement could be devastating to working families. For these families, a short-term loss could mean...
a long-term climb back into housing availability at the price point they can afford.


**Status: Signed into law by Governor Polis**

HB22-1362 directs the state and a majority of local agencies to enforce the most-recently published International Energy Conservation Code (IECC) energy codes on a regular process through 2030. It also requires pre-wiring to support future electrification in the construction of new buildings. CAR and many other housing industry stakeholders worked throughout the interim and during the session to address concerns and improve drafts of the bill. Our goal was to ensure these programs and initiatives were in alignment with well-vetted IECC model codes and voluntary adoption of dual fuel technologies and appliances within homes and businesses.

Amid continued opposition from municipalities and the real estate industry, the bill narrowly gained passage in the House on a 33-32 vote, with nearly 10 democrats breaking with their caucus to oppose the bill. Anticipating continued opposition in the Senate, the bill was largely rewritten to reflect significant changes including the following amendments:

- Removing the Colorado Energy Office (CEO) as the sole entity for selecting both the IECC Electric Ready codes and the IECC Low Energy and Carbon code; instead, creating a new Energy Code Board consisting of 21 members representing local governments, developers, architects, engineers, electricians, plumbers, construction trades and utilities.
- Prioritizing “cost effectiveness” on electric-ready pre-wiring in large commercial and multi-family buildings - including a creation of waivers.
- Including specific language around affordability that must be taken into account when writing the new codes and adding a waiver for properties that are destroyed by a natural disaster and need to re-build.
- Clarifying that state electric and plumbing codes prevail in case of a conflict with new IECC codes.

**SB22-238: 2023 and 2024 Property Tax (LPC Position: Amend to Monitor)**


**Status: Signed into law by Governor Polis**

SB22-238 is a complicated bill that is a legislative compromise between the Governor’s office, and various advocacy groups on the left and right who were attempting to: run five to seven housing ballot measures from a proposition 13 like cap tailored to Colorado; to a reduction in property taxes that would reduce local revenue; a patchwork taxation approach for different types of properties; a luxury tax on properties valued at $2 million dollars or more. CAR voiced strong opposition to the ballot measure being run by Colorado Concern that would have put in place a property tax cap like Prop 13 in California and several other states that would tie the housing market into knots and have significant downstream real estate effects.

With SB22-238 bill being signed into law, five of those housing ballot measures for the statewide ballot were removed and the property tax system will become very complicated for the next five years. The first two years follow SB22-238 reductions, then Colorado reverts to some of the reductions made last year under SB21-293, and finally in year 2025, Colorado returns to normal property taxation assessment rates.

SB22-238 makes the following changes to tax assessment rates for the 2023 property tax year:

- The assessment rate for all residential property is reduced to 6.765%, from 6.95% for single family property and from 6.80% for multifamily property; and
- The assessment rate for nonresidential property, other than oil and gas, agricultural, and renewable energy producing property, is reduced to 27.9% from 29.0%.

When determining 2023 assessed values, the bill directs assessors to apply assessment rates to the actual value of residential property, less $15,000, and to the actual value of improved commercial property, less $30,000, so long as these subtractions do not cause the valuation for assessment of the property to fall below $1,000.

The bill makes the following changes to property tax assessment rates for the 2024 property tax year:

- Multifamily residential property is reduced to 6.80% from 7.15%;
- Agricultural and renewable energy producing property is reduced to 26.4% from 29.0%; and
- Single family residential property is set at a level to be
determined by the state property tax administrator, such that the projected total revenue reduction attributable to the changes in the bill is $700 million over the 2023 and 2024 property tax years.

REGULATORY

HB22-1111: Insurance Coverage For Loss Declared Fire Disaster (LPC Position: Support)
Status: Signed into law by Governor Polis

The bill changes the requirements for homeowner's insurance coverage and claims handling in the event of a total loss of an owner-occupied residence, including the contents, when the loss is a result of a wildfire disaster declared by the Governor. The bill requires insurers to provide additional time and flexibility in rebuilding or replacing an insured residence and its contents, additional living expense coverage, building code upgrade costs, and a way to directly contact the insurer as detailed in the bill.

CAR watched this bill very closely to see how this bill would impact the Marshall Fire victims, address under-insurance issues, and allow for a functioning insurance market for home purchases.

SB22-206: Disaster Preparedness And Recovery Resources (LPC Position: Amend)
Status: Signed into law by Governor Polis

The comprehensive bill creates three new programs or offices related to natural disasters and climate. First, the Disaster Resilience Rebuilding Program is created in the Division of Local Government in the Department of Local Affairs (DOLA) to provide loans and grants to eligible applicants to rebuild their community after a declared disaster. Loans and grants may be used to subsidize the costs to repair a homeowner's primary residence; repair or reconstruct housing stock; provide rental assistance for displaced renters; provide operating capital to a business experiencing a business interruption or to cover the costs of replacing or repairing the business's property; rebuild neighborhoods; or otherwise reimburse a government entity for the costs associated with a declared disaster.

Second, the Sustainable Rebuilding Program is created in the CEO in collaboration with the Colorado Resiliency Office and DOLA to provide loans and grants to eligible homeowners and businesses seeking to rebuild high-efficiency homes and buildings after a declared disaster. Loans and grants may be used to rebuild or rehabilitate homes or buildings that are energy efficient and provide energy storage, renewable energy generation, and vehicle charging stations.

Third, the Office of Climate Preparedness is created in the Governor's Office to coordinate disaster recovery efforts as the development and implementation of the statewide climate preparedness roadmap. The roadmap is required to identify strategies for how the state will grow in population and develop in a manner that addresses climate change mitigation, adaptation, resiliency, recovery and inform the development of statewide conservation goals in coordination with the Department of Natural Resources (DNR) and Department of Agriculture (CDA).

Finally, the Commissioner of Insurance will conduct a study and report on methods to address the stability, availability, and affordability of the homeowner's insurance market.

CAR got involved in this bill most directly with a potentially dangerous amendment for housing affordability. An amendment was proposed that would have created statewide wildfire resiliency building code. While CAR is a strong supporter of creating defensible space and preventing against the dangers of wildfires, the proposed language of the amendment had no definitions of affordability factored into the potential regulatory proposals and a notable lack of enough construction trade and local government representatives included in the code writing process. Due to CAR's and several other stakeholder voices raising concerns about the vague and potentially harmful amendment having significant detrimental affects to the rising cost of living in Colorado the amendment was scrapped. Conversations will continue into next year as we look for a solution that works for all consumers and enables choices that are affordable in all parts of the state.
HB22-1287: Protections for Mobile Home Park Residents  
(LPC Position: Opposed until amended)  
Status: Signed into law by Governor Polis.

HB22-1287 provides numerous protections for mobile home park residents by expanding previous legislation around allowing residents to purchase their own mobile home parks by increasing the length of time for notice about land use changes, potential sales by the housing provider owners, and requiring community engagement through public meetings held by residents. The bill also increases the time frame allowed for resident purchases from 90 to 180 days, prohibits retaliation when residents do decide to participate in mobile home park purchases and increases access to public entities like municipalities, and housing authorities’ abilities to purchase mobile home parks, too.

CAR strongly objected to the rent stabilization and rent control part of the bill for two reasons. Artificial rent caps are bad public policy because they create a benefit for a small group of haves at the expense of most have-nots, and this type of policy would further create affordable housing supply deficits and become a precedent for any housing product type in the future. When the bill sponsors refused to initially remove this small section of a more than 50-page bill, CAR worked directly with the Governor’s office to raise our concerns about this part of the legislation as did other housing provider stakeholders. After the Governor threatened to veto the bill if this rent control portion remained, it was amended out of the final legislation.

HB22-1036: Improvement Location Certificate Real Estate Forms  
(LPC Position: Amend)  
Status: Died on the calendar

This bill was brought forward by two land surveyors on behalf of their association and would have required the Real Estate Commission in the Department of Regulatory Agencies (DORA) to promulgate rules by January 1, 2023, for certain commission-approved forms to show whether a real estate transaction is based on an improvement location certificate or a land survey plat.

CAR, and our mortgage lending and title insurance folks spoke with the bill proponents and helped them to understand that the original form of their bill did not accomplish what they were striving to do in providing consumer clarity. The contract to buy and sell already included language to that effect and when they changed the bill to solely reflect the closing statement, the bill also became unnecessary after the Forms Committee of the Real Estate Commission changed the form in their internal executive agency process so the legislation was no longer needed and was postponed indefinitely in committee.

LAND USE

CAR and its nearly 30,000 members work hard to implement proactive education and community awareness programs through Colorado Project Wildfire, a program created by CAR in 2015 that is designed to help educate property owners about the importance of wildfire mitigation on their individual properties and guide access to available local resources to help them complete that mitigation.

This year the state legislature put significant focus on wildfire prevention and expanded state funding for wildfire mitigation across multiple bills that LPC’s Land Use sub-committee reviewed. Specifically, CAR testified in support of extending the wildfire tax deduction we were instrumental in starting more than five years ago, so that individual property owners can continue to get state funding for creating defensible space (HB22-1007), and we testified in support of state grants that match funding for local wildfire mitigation projects (HB22-1011). Other bills provide funding for removing dead or dry kindling that improves forest health (HB22-1012), create more supervision over controlled burns (HB22-1132), and establish procedures and processes to improve our tree nursery system in Colorado (HB22-1323). And all pieces of legislation were signed into law by Governor Polis.
H.B. 22-1151: Turf Replacement Program
(LPC Position: Monitor)
Signed into Law by Governor Polis

H.B. 22-1151 requires the Colorado Water Conservation Board in the Department of Natural Resources to develop a turf replacement program that incentivizes the replacement of nonessential turf on property types such as residential lawns or municipal medians. Local governments and nonprofits can apply for matching funds if they currently manage a similar program. To qualify, eligible entities must cover 50 percent of the replacement costs.

The bill is consistent with existing water-saving measures, especially in its aim to reduce the amount of water used in exterior settings where water is easily lost and cannot always be recaptured into a municipality’s water system. CAR monitored the bill for impacts it might have on property owners and their ability to choose whether or not to replace their turf with water-wise landscaping that could minimize water consumption.

S.B. 22-114: Fire Suppression Ponds Water Rights
(LPC Position: Monitor)
Signed into Law by Governor Polis

S.B. 22-114 allows county commissioners to apply to the State Engineer to designate ponds as fire-suppression ponds as long as county governments work with Fire Protection Districts to identify ponds in high-risk wildfire areas and then find the necessary pond refilling mechanisms. Ponds are first identified as having fire-suppression potential, followed by a public comment period of 35 days. Ponds considered valid for purposes of this legislation must predate 1975, not be subject to existing conflicting property rights, and cannot injure any existing vested water rights.

Fire is a destructive force that can threaten the lives of civil servants and valuable property. For years CAR’s Colorado Project Wildfire has worked with property owners to ensure safe and defensible space surrounding structures within the wildland urban interface. CAR monitored the evolution of the bill for the impacts to wildfire mitigation efforts and the nexus to existing property rights.
A SPECIAL THANK YOU TO LPC MEMBERS, LEADERSHIP, AND STAFF

Thank you for the countless hours you’ve put in and devotion to our industry to ensure Colorado REALTORS® and the clients you serve have a voice at the State Capitol.

The members of CAR's Legislative Policy Committee (LPC) actively participate on various subcommittees to review and analyze legislation impacting real estate and Colorado's business climate and recommend action on specific bills. The Committee is comprised of 38 committed REALTOR® members from all corners of the state. They work hard to protect property rights and ensure REALTORS® have a seat at the policy table.

At CAR, we lead the charge by building the key relationships, we would not be successful without the countless volunteer hours from the LPC.

2022 CAR LEGISLATIVE POLICY COMMITTEE

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LPC Vice-Chair: Ann Hayes

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Land Use Chair: John Mitchell
Regulatory Chair: Will Flowers
Water Chair: David Barber


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