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The Voice For Real Estate In The Roaring Fork Valley

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Our **MISSION** is to serve our members by providing programs and services that empower them to conduct their business successfully with integrity and competence.

aspenglenwoodmls.com







Dear Members,

After attending the National Association of Realtors® Convention in Orlando recently, it became more apparent just how important continuing education is to our profession. Above and beyond our state required education, it is imperative to stay up-to-date on the many new trends, strategies, challenges and the numerous applications that are available to help us increase our professionalism. To help you keep current with the latest, ABOR is bringing new and exciting speakers in 2017 who will engage us with pertinent and refreshing perspectives on all things real estate with their insight, techniques, tips and stories.

First and foremost, we have secured Marcia Waters, Director of the Colorado Division of Real Estate to speak. Marcia started in 2005 as a criminal investigator and became the real estate division director in 2010. She also manages the Division's \$6.5 million budget, oversees a staff of 57 and establishes the direction of Division programs based on market and industry trends.

Adorna Carroll, is Vice President and Owner/Broker of Realty3 CT, a multi-office firm in Connecticut and is President of Dynamic Directions, Inc., an educational and sales training consulting firm. She is an international speaker with insights to Strategic and Business Planning, Agency Relationships, Buyer Representation and many other topics. She kept us spellbound during the Board Retreat in September.

ABOR is also bringing in renowned luxury real estate specialist and national speaker, Jack Cotton who started The Cotton Real Estate Company in 1974. Jack has 35 years of experience in highend Real Estate on Cape Cod, Martha's Vineyard and Nantucket. One of his many seminars includes, *Negotiation Skills for the Luxury Real Estate Specialist*.

In addition, ABOR is hosting the General Counsel for the Colorado Association of REALTORS®, Scott Peterson. His presentation will be *Top 10 Legal Issues for REALTORS®*.

I also learned of a great app while at NAR - Jack Cotton was insistent that Real Estate Professionals begin using, "BeenVerified.com." It's free and will help identify to whom you are speaking with.

Stay tuned for ABOR's 2017 Education & Programs schedule...coming soon.

Happy Holidays,

Chris Lewis



DECEMBER CALENDAR OF EVENTS JANUARY





The Voice For Real Estate In The Roaring Fork Valley

B A S A LT CARAVAN

DECEMBER 21 JANUARY 4. 18 9:30 - 11:00

SNOWMASS CARAVAN

DECEMBER JANUARY 11, 25

ASPEN CARAVAN

ECEMBER 22, 29 JANUARY 5, 12, 19, 26 9:30 - 11:30 DEC

ABOR closed for Christmas Holiday

DEC 26 ABOR closed for Christmas Holiday

DEC 30 **ABOR closed for New Year's Holiday**

JAN

ABOR closed for New Year's Holiday

JAN

Board of Directors Meeting



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Nick Bokone ABOR Governmental Affairs Director



ABOR HEADLINES

Government Affairs Corner



Moratorium and Land Use Code Updates

Aspen City Council continues to work on code amendments to better incorporate the Aspen Area Community Plan into the Land Use Code. The public hearing review schedule is as follows. All meetings are held in City Council Chambers in the basement of City Hall.

- December 12th, 5pm Commercial Design Standards and Guidelines, View Planes, continued public hearing on use mix, dimensions, and mitigation
- January 9th and 10th, 5pm continued public hearing on parking, use mix, dimensions, and mitigation
- January 23rd, 5pm Continues public hearing on Commercial Design Standards and Guidelines, and View Planes
- January 24th, 5pm Anticipated adoption of all code amendments
- February 13th, 5pm Anticipated public hearing on Formula (Chain)
 Stores to determine if code amendments should be pursued

Employee Housing Projects in the Works in Aspen

Three public-private partnerships involving the development of rental housing for Aspen employees hope to gain traction beginning next year with a series of outreach efforts. Together with Aspen Housing Partners, the city intends to develop rental complexes at city-owned properties at 488 Castle Creek Road, 517 Park Circle and 802 W. Main St.

The city would lease the land to Aspen Housing Partners, which has agreed to build a mix of Categories 1 through 4 under the housing authority's guidelines. A preliminary proposal calls for 11 one-bedroom and two two-bedroom units at West Main Street; four one-bedroom, five two-bedroom and two three-bedroom units at Park Circle; and 15 one-bedroom and nine two-bedroom units at Castle Creek.

At a meeting last week with members of the Aspen City Council, Jason Bradshaw of Aspen Housing Partners said the plan is to hold a series of community gatherings in both January and March andbring its findings from the meetings back to council at the end of March.

Financing the projects would, in part, come through either 4 percent or 9 percent federal and state affordable-housing credits. Early projections put the cost at \$24.2 million, with \$12.7 million coming through housing tax credits, \$4.6 million through a first mortgage loan and a second \$6.9 million mortgage loan from the city of Aspen.

Aspen Board of REALTORS® Reaches RPAC Goal

I'm happy to report that the Aspen Board of REALTORS® has reached its REALTORS® Political Action Committee (RPAC) goal for the first time in Association history! ABR's total of \$15,275 raised is 101% of our goal set for us by the Colorado Association of REALTORS®.

RPAC is a nonpartisan political action committee that supports candidates and ballot issues important to the real estate industry, REALTORS®, and home ownership. RPAC works hard at the local,





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state, and national of government to ensure our point of view is heard on issues such as land use, tax reform, construction defects, Fannie Mae and Freddie Mac reorganization and other topics. Thanks to all of you who have contributed to RPAC this year and helped ensure our industry's political future.

CAR Preparing for an Active 2017 Legislative Session

The gavel drops on January 11th in Denver for the annual meeting of the Colorado General Assembly, and the Colorado Association of REALTORS® is preparing for a busy session with a variety of issues affecting real estate to be considered.

By state statute, this year the legislature will reauthorize and consider changes to the Colorado Division of Real Estate. Possibly changes such as the makeup of the real estate commission, the number of continuing education hours required by law, minimum requirements for broker's licenses and even the prevalence of property managers as a real estate specialty will all be considered. The legislature will likely take up this topic early in the session, so look for updates in January and February as this topic moves through the legislature.

Other topics likely receiving debate are:

- Construction Defect Litigation reform CAR and the Affordable Housing Coalition are hopeful that with a more moderate House of Representatives that real reform can happen regarding the way condominium construction defects are fixed and legislated. If reform happens, CAR is hopeful for the possibility of developers bringing more condominiums to the marketplace.
- Squatter Legislation It looks like an effort might materialize to tighten statutes that protect property owners from squatters in vacant properties and arm law enforcement with tools to protect homeowners and evict criminals more efficiently.

 Home Inspection Licensing – We expect to see a revival of the discussion relating to home inspector licensing. CAR has been a proponent in the past of efforts to license (or at least register and bond) professionals who are such a large part of real estate transactions. The home inspector associations are beginning to agree more on what is needed to regulate their industry in Colorado, and that will likely reignite the discussion.

FHFA Raises Conforming Loan Limits

For the first time in a decade, the Federal Housing Finance Agency announced that it will raise the maximum conforming loan limits for mortgages purchased through Fannie Mae and Freddie Mac. Beginning in 2017, the maximum loan limit for one-unit properties will be \$424,100, up from \$417,000, in most markets throughout the United States. Higher limits will be in effect in higher-cost areas.

Conforming loan limits set the bar for what Fannie Mae and Freddie Mac are willing to purchase in the secondary mortgage market. Anything above that threshold is considered a "jumbo" loan, a moniker that can be accompanied by higher fees for certain borrowers, higher downpayment requirements and stricter lending standards. An increase in conforming loan limits also has a potential impact on Federal Housing Administration borrowers, as FHA sets its minimum national loan limit "floor" at 65 percent of the conforming loan limit. Any increase in FHFA's conforming loan limit will have a corresponding effect on FHA's loan limits as well.

According to NAR data, home prices hit a fresh peak this summer when the median sales price hit \$247,600. That high-water mark is reflective of a broader trend, as just-released existing-home sales data from NAR showed that October or 2016 marked the 56th consecutive month of year-over-year gains. FHFA last announced a conforming loan limit increase in 2006.

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Compliments of the Aspen Board of REALTORS®

REAL ESTATE IN THE NEWS

News in the Roaring Fork Valley of Particular Interest to the Real Estate Community

Aspen

City Makes Due Diligence Filing on Dams

The city of Aspen holds water storage rights for two reservoirs on the upper Castle and Maroon creeks, and in November filed two applications in Water Court for "finding of reasonable diligence" on those rights it has maintained since 1965, the Aspen Daily News reported...MORE

Voters Approve Tax Extensions, Director Oversight

City of Aspen voters said "yes" to extending existing taxes in the November election, the Aspen Daily News reported. By a two-to-one margin voters supported the 20-year extension of the real estate transfer tax (RETT) supporting the Wheeler Opera House, and a .3 percent sales tax supporting the Aspen School District was given another five years...MORE

Affordable Housing Approved for Poppies Space on Main St.

A Victorian cottage formerly home to the Poppies restaurant will be restored, and two additional buildings will be constructed on the prominent site at the entrance to town, as part of an affordable housing project approved unanimously by Aspen City Council in November, the Aspen Daily News reported....MORE

New Restaurant and Bar Opens in Gondola Plaza

A new venture by restaurant veteran Shlomo Ben Hamoo, of Shlomo's Deli & Grill, opened for the season in gondola plaza in November, the Aspen Daily News reported. The new restaurant has an extensive menu, with most items priced at \$12 to \$16 or less, and that it will serve to-go breakfast burritos in the morning....MORE

Aspen Moves to Limit Number of Chain Stores in the Core

Aspen City Council voiced support for developing new requirements that any new "formula retail" go through a conditional review that would allow the city to turn down the potential operator's business license, the Aspen Daily News reported....MORE

Snowmass

Snowmass Approves Fire Station, Additional Tax

Local voters agreed to support a new fire house with a \$17 million price tag through a mill levy increase, the Aspen Daily News reported..MORE

Summer Sees Record Sales-Tax Revenue

Snowmass Village recorded its best-ever summer sales tax collections, and could finish 2016 in the same way, the Aspen Daily News reported. From June through September, the town collected \$390,360 which is the highest ever for that four-month period since records have been kept in the town. In September alone, \$90,254.06 in sales tax monies were collected....MORE

Ski Area Looks to Expand Summer Offerings

The public is being asked to weigh in on the White River National Forest's draft to expand summer offerings on Snowmass Ski Area, the Aspen Daily News reported...MORE

Basalt

Curves Ahead on Highway 82

The lanes on Highway 82 are looking a little curvy, as the town begins the next phase of work on its new, \$7.1 million pedestrian underpass, the Aspen Daily News reported...MORE

Carbondale

Feds Cancel Thompson Divide Leases

After a multi-year battle, the federal government officially finalized canceling 25 leases in the Thompson Divide, signaling a win for local efforts to keep the area west of Carbondale free from new oil and gas drilling, the Aspen Daily News reported...MORE

Carbondale to Consider Safe Streets

After a recent assault and general perception that Carbondale needs to be "safer," officials and the public are considering ways to improve that feeling, the Sopris Sun reported...MORE

Glenwood Springs

Hot Springs to Purchase Hotel Colorado; Redstone Castle Gets New Owners

After a 70-year separation, the historic Glenwood Hot Springs Pool and Hotel Colorado are reuniting, the Glenwood Post Independent reported...MORE

Pitkin County

Record Turnout in Pitkin County, Open Space Reapproved

Nearly 70 percent of registered voters in Pitkin County showed up in early November, making it the best turnout on record, the Aspen Daily News reported...MORE

SkiCo Prepares for Retirement Wave

As the valley's retirement population grows, its biggest employer is looking for ways to offset an ever-increasing housing shortage, the Glenwood Springs Post Independent reported...MORE

ABOR BRIEFS



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Olde Towne Moving & Storage

ABOR would like to thank Olde Towne Moving and Storage for their support and manpower in picking up and dropping off the LIFT-UP Food Drive cans from 24 local real estate offices. The ABOR LIFT-UP Food Drive project would have not been successful without their help.



Season of Giving Recap

Thank you members for another successful Season of Giving Project!

ABOR would like to thank the following real estate offices for participating in the LIFT-UP Food Drive and helping out our community.

Aspen Signature Properties

Aspen Snowmass Sotheby's (Basalt, SMV & Aspen)

Basalt Realty

Berkshire Hathaway (SMV & Aspen)

Coldwell Banker Mason Morse (Basalt, SMV & Aspen)

Compass (Basalt & Aspen)

Douglas Elliman Real Estate (SMV & Aspen)

Land Title Guarantee Company

Palladium Properties

Setterfield & Bright

Wells Fargo Home Mortgage

Woodbridge Realty Unlimited









Copyright Infringement Safe Harbor Designated Agent Required Prior to DMCA

by David Kluft

The recent case of <u>Oppenheimer v. Allvoices</u> is, if nothing else, a cautionary tale for everyone who wants to start the next big social networking site or provide any internet service with user-generated content. The moral is that the <u>Digital Millennium Copyright Act</u> (DMCA) is not self-executing; there are a few hoops you have to jump through before you can take advantage of the DMCA safe harbor. One of them is selecting and registering a designated agent.

What is a DMCA Designated Agent?

Under the DMCA, an online service provider is protected from secondary liability for most copyright infringement by its users. However, pursuant to 17 U.S.C. § 512(c)(2), this safe harbor only applies if "the service provider has designated an agent to receive notifications of claimed infringement." The online service provider simply has to publish the name and contact information of its designated agent on its website and let the Copyright Office know who it is. For example, here is the designated agent page for LinkedIn.com, and here is one of the designation forms the company submitted to the Copyright Office.

Allvoices.com: A Cautionary Tale

Founded in 2007, allvoices.com bills itself as "a platform for citizen journalism," and essentially operates like a crowd-sourced news site, supported by ads. The site's policy prohibits the posting of copyrighted material by users but, in January 2011, a user uploaded without permission images that were copyrighted by photographer David Oppenheimer.

Unfortunately for allvoices.com, it apparently had gone all this time without designating an agent to receive copyright notices. Perhaps that is why, as Oppenheimer alleged, nobody responded to his demand letters. Not until March 2011, after receiving Oppenheimer's demand letters, did allvoices.com comply with the statute and fill out its <u>agent designation form</u>.

Safe Harbor Does Not Apply Retroactively

When Oppenheimer recently sued for copyright infringement in the Northern District of California, allvoices. com filed a motion to dismiss, arguing that it was protected by the DMCA safe harbor. According to allvoices.com, it had designated an agent by the time Oppenheimer had sued in 2014, so who cares if it had a designated agent way back in 2011. Ancient history, right?

Wrong, said Judge Laurel Beeler. Judge Beeler pointed out that no case law supported the position advanced by allvoices.com. On the contrary, the only case to have addressed the issue held that infringement claims predating DMCA agent designation were not barred by the safe harbor. And the defendant in that one relevant case was...let's see ... here it is allvoices.com.

As <u>Lionel Hutz</u>, Esq. <u>once said</u>: "Oh right . . . THAT thing." (apologies to non-Simpsons fans).

Judge Beeler denied the motion to dismiss the copyright claims. According to the docket, the parties are now engaged in alternative dispute resolution.

How Do I Designate an Agent?

In order to designate an agent for receipt of DMCA copyright infringement claims, pick an agent (it can be but doesn't have to be your lawyer) and follow the instructions on the Copyright Office website, including by filling out the designation form and mailing it in along with a registration fee. If you want to see a list of designated agents and completed forms, the Copyright Office website contains a complete directory. Remember also to publish the identity and contact information of the agent on your website, as allvoices.com has now done.

Tags: <u>Agent, Digital Millennium Copyright Act, DMCA</u> Categories: <u>Copyright Comments Trackbacks Share7</u>



4 THOUGHTS ON ""OH RIGHT... THAT THING!" DESIGNATED AGENT REQUIRED PRIOR TO DMCA COPYRIGHT INFRINGEMENT SAFE HARBOR"

DMCA Designated Agent Directory

Service Provider Designation of Agent to Receive Notifications of Claimed Infringement

The Digital Millennium Copyright Act ("DMCA") provides safe harbors from copyright infringement liability for online service providers. In order to qualify for safe harbor protection, certain kinds of service providers—for example, those that allow users to post or store material on their systems, and search engines, directories, and other information location tools— must designate an agent to receive notifications of claimed copyright infringement. To designate an agent, a service provider must do two things: (1) make certain contact information for the agent available to the public on its website; and (2) provide the same information to the Copyright Office, which maintains a centralized online directory of designated agent contact information for public use. The service provider must also ensure that this information is up to date.

In December 2016, the Office introduced an online registration system and electronically generated directory to replace the Office's old paper-based system and directory. Accordingly, the Office no longer accepts paper designations. To designate an agent, a service provider must register with and use the Office's online system.

Transition period: Any service provider that has designated an agent with the Office prior to December 1, 2016, in order to maintain an active designation with the Office, must submit a new designation electronically using the online registration system by December 31, 2017. Any designation not made through the online registration system will expire and become invalid after December 31, 2017. Until then, the Copyright Office will maintain two directories of designated agents: the directory consisting of paper designations made pursuant to the Office's prior interim regulations which were in effect between November 3, 1998 and November 30, 2016 (the "old directory"), and the directory consisting of designations made electronically through the online registration system (the "new directory"). During the transition period, a compliant designation in either the old directory or the new directory will satisfy the service provider's obligation under section 512(c)(2) to designate an agent with the Copyright Office. During the transition period, to search for a service provider's most up-to-date designation, begin by using the new directory. The old directory should only be consulted if a service provider has not yet designated an agent in the new directory.



WHAT'S TRENDING





ASPEN BOARD OF REALTORS®

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2016 ABOR HOLIDAY PARTY AT MICHOLA







































ASPEN BOARD OF REALTORS

































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The Voice For Real Estate In The Roaring Fork Valley

ABOR hosted another well attended Free Photos with Santa for the community at the Limelight.



JOHN WENDT COLORADO CONTRACTS CLASS



John Wendt presents the Colorado Contracts & Forms Review to a packed house at the Limelight on December 13.





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EDUCATION CALENDAR

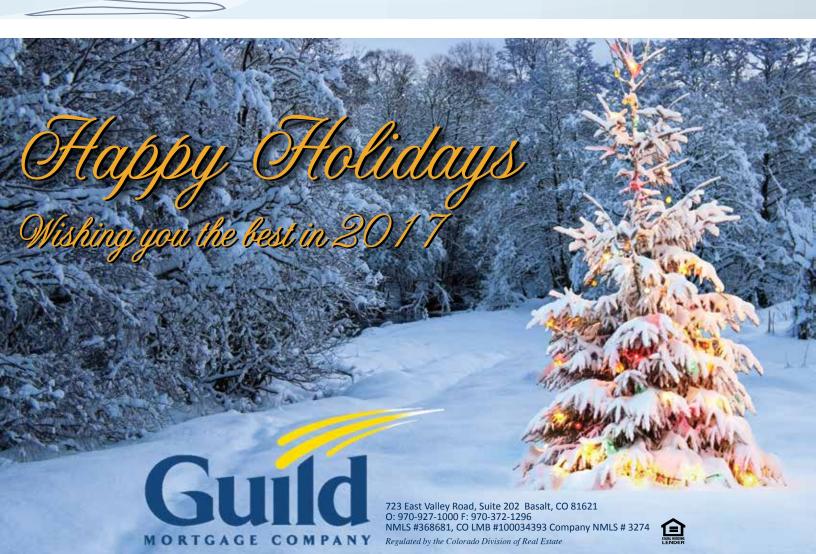
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2017 Education Calendar Sneak Peek

ABOR is happy to announce the following speakers for 2017. Stay tuned for the complete 2017 educational calendar which is currently being finalized.

January 23	Doug Barber, Professional Standards Training
February 23	Steve Murray, <i>RealTrends</i>
March 14	Adorna Carroll, Systems for Superior Service
April 4	Jack Cotton, Luxury Real Estate Specialist
June 22	Marcia Waters, DORA, Real Estate Commission Updates
September 12	Scott Peterson, 10 Legal Issues for Realtors®



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Contact one of us today to get started.



MEMBERSHIP REPORT

November 2016

For MLS Support or Questions:

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New REALTOR® Members

Ricky Rosin

Compass

New Offices

Lester Properties

David Lester

Romero Group Realty, LLC

Lisa Price

SBA Commercial

Erik Barbic

Company Changes

Steven Multin

Engel & Volkers

Hilary Porterfield

Engel & Volkers

Lisa Price

Romero Group Realty, LLC

Jill Tasker

Carbondale Real Estate

Melissa Temple

Engel & Volkers

New Affiliate Members

Lindsey Geary

Alpine Bank

Nicole Kinsler

CCY Architects

Membership Stats Thank you for your business!

REALTOR® Members - 662 Affiliates - 51



ASPEN BOARD OF REALTORS®

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AGSMLS SOLD STATS

NOVEMBER 2016



Dear Member,

As a benefit of membership, the Aspen Board of REALTORS® is proud to present CAR's latest local monthly housing statistics based on sales in our FlexMLS program. These reports are released to the media and published for the public to view on the CAR website. The Local reports are shared by each area board and are posted on ABOR's website as well as below.

The reports are broken down by major area for the Aspen/Glenwood MLS listings. The links are provided here for your convenience. Please feel free to share this valuable information.

Aspen Report November 2016 >>>

Basalt Report November 2016 >>>

<u>Carbondale Report November 2016</u> >>>

Glenwood Springs Report November 2016 >>>

Marble Report November 2016 >>>

Missouri Heights Report November 2016 >>>

New Castle Reports November 2016 >>>

Old Snowmass Reports November 2016 >>>

Redstone Reports November 2016 >>>

Rifle Reports November 2016 >>>

Silt Reports November 2016 >>>

Snowmass Village Reports November 2016 >>>

<u>Mountain District Reports for November 2016</u> >>>

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