


THE STATUTES

- ▶ 32-1-808(1)(a) No person shall knowingly take or place title to taxable property in the name of another or enter into a contract to purchase or sell taxable property for the purpose of attempting to qualify such person as an eligible elector at any special district election.
 - This prohibition does not apply if there are less than eleven eligible electors as of any date before an organizational election
- ▶ Originally passed in 2006.


THE PROBLEM PRESENTED BY THE LANDMARK DECISION

- ▶ The bond market for special district bonds essentially shut down on April 21.
 - ▶ Many districts had been formed with purchase and sale contracts being used to qualify electors which contracts had some or all of the characteristics of the Landmark contracts.
 - Could counsel give an unqualified opinion that the TABOR election was validly conducted?
- 

THE SOLUTION-SB16-211

- ▶ Validates the qualifications of all persons who have voted at previous district elections (except where such qualifications are currently the subject of litigation).

THE SOLUTION–SB16–211

- ▶ Validates the qualifications of persons who have previously been appointed to or elected to serve on a district board (except where such qualifications are currently the subject of litigation).
 - ▶ All actions undertaken by any board member who may not have been qualified to serve on the board when appointed or elected on or before May 3, 2016, shall be considered as actions of a de facto officer and director and as valid and effective.
- 

THE SOLUTION—SB16-211


- ▶ Introduced May 2.
- ▶ Adopted May 11.
 - Approved 35-0 in the Senate and 65-0 in the House.
- ▶ Signed by the Governor May 18.
- ▶ Many examples of the General Assembly validating or curing prior defects.
 - *Taxpayers for Animas-La Plata Referendum v. Animas-La Plata*, 739 F.2d 1472 (10th Cir. 1984).

General Counsel Perspective

- ▶ 1. Nuts
- ▶ 2. It is broke, and needs fixing.

General Counsel Perspective

Nuts

- ▶ 1. Business As Usual generally will not work.
 - ▶ 2. Concerns About the Case:
 - a. The Finality of Elections is no longer final.
 - b. The “non-contestable” clause in bonds is not uncontestable.
 - c. Some voters are no longer identifiable (and people without tax obligations have rights).
 - d. The safe harbor for mailing TABOR Notices is no longer safe.
 - e. What about mineral rights(?)
 - f. And, what about Big Districts?
- 

General Counsel Perspective

C.R.S. 32-1-103(5)(a) Definitions

- ▶ (5) (a) "Eligible elector" means a person who, at the designated time or event, is registered to vote pursuant to the "Uniform Election Code of 1992", articles 1 to 13 of title 1, C.R.S., and:
 - ▶ (I) Who is a resident of the special district or the area to be included in the special district; or
 - ▶ (II) Who, or whose spouse or civil union partner, owns taxable real or personal property situated within the boundaries of the special district or the area to be included in the special district, whether said person resides within the special district or not.
- ▶ (b) A person who is obligated to pay taxes under a contract to purchase taxable property situated within the boundaries of the special district or the area to be included within the special district shall be considered an owner within the meaning of this subsection (5).


General Counsel Perspective

C.R.S. 32-1-808(1)(a)

- ▶ 32-1-808(1)(a) No person shall knowingly take or place title to taxable property in the name of another or enter into a contract to purchase or sell taxable property for the purpose of attempting to qualify such person as an eligible elector at any special district election.
 - This prohibition does not apply if there are less than eleven eligible electors as of any date before an organizational election
- ▶ Originally passed in 2006.

General Counsel Perspective

Cutting to the Chase

- ▶ 1. More legislation may be needed.
 - ▶ 2. Districts will be more expensive to organize.
 - ▶ 3. Some elections need to be re-done.
 - ▶ 4. Contracts to Purchase are being revised via a “model form”, and perhaps should be avoided.
 - ▶ 5. Bonds may be more expensive to issue – additional due diligence is being requested by Bond and General Counsel.
- 

The Landmark Litigation

- ▶ Petition for Writ of Certiorari has been filed with Supreme Court to seek review of *Landmark Towers Association, Inc. v. UMB Bank, N.A.*
 - Could Court grant relieve to the condo owners but find the statutes of limitations are otherwise available for other situations.

- ▶ “Is a dream a lie if it don’t come true, or is it something worse?”
 - “*The River*” by Bruce Springsteen
- ▶ “Think of a special district like a cult, they could take your money and you may not even be aware that you are in one.”
 - *Last Week Tonight with John Oliver*

Questions

Presented by NAIOP Colorado and Holland & Hart LLP



Building A Better **COLORADO**

2016 Educational Series: An In-Depth Look at Four Critical Topics Impacting Today's Real Estate Industry

MARK YOUR CALENDAR!

Presented by NAIOP Colorado and Holland & Hart LLP



Building A Better COLORADO

2016 Educational Series: An In-Depth Look at Four Critical Topics Impacting Today's Real Estate Industry

A multi-session educational series taking a close look at four critical and timely issues facing Colorado's real estate industry, including metro district financing, construction costs, safety and security and affordable housing. Learn how industry experts are implementing changes and developing solutions to "Build A Better Colorado!"

Session II: Construction Costs

Wednesday, September 28 at Holland & Hart LLP; 7 am - 9 am

How Do You Minimize Construction Cost Increases? Hear from construction leaders on actions that can be taken to minimize your exposure to these rises.

Special Guest Presenters Coming Soon!

JOE ZANONE, MODERATOR
Senior Project Manager
rand* construction company

WHEN:
7:00 AM—9:00 AM

WHERE:
HOLLAND & HART LLP
555 17th Street, Ste. 3200
Denver, CO 80202

EVENT SCHEDULE:
AUGUST 17
Financing Infrastructure
After Landmark Court Case

SEPTEMBER 28
Construction Costs

OCTOBER 19

Building A Better Colorado:
Session II - Construction
Costs

Wednesday, September 28
7:00 am – 9:00 am
Holland & Hart LLP

Visit NAIOP-Colorado.org/
for more details
or to register.

REGISTER NOW!

3RD ANNUAL
NAIOP MAJESTIC REALTY CUP

JOIN COMMERCIAL REAL ESTATE
INDUSTRY ELITE FOR A NIGHT OF
HOCKEY, PIZZA, BREWS & POST
GAME BRAGGING RIGHTS

PROCEEDS BENEFIT THE CHILDREN'S HOSPITAL
COLORADO FOR PEDIATRIC CANCER RESEARCH



NAIOP
COMMERCIAL REAL ESTATE
DEVELOPMENT ASSOCIATION
COLORADO CHAPTER

Thursday, August 17
3:30 pm – 6:30 pm
Sport Stable,
Ice Ranch
in Boulder Valley

Limited Sponsorships
Available!

Visit our website at
[NAIOP-Colorado.org/
WinterClassic](http://NAIOP-Colorado.org/WinterClassic) for more
details.

SAVE THE DATE!

SAVE THE DATE

Thursday, September 29th, 2016

4th ANNUAL

Developing Leaders Bonus Offer!
Registered Members of the Developing
Leaders Council of NAIOP
will receive a bonus entry to the
Upcoming Broomball Tournament for a
\$20 fee

Proceeds benefit the Children's Hospital of
Colorado



NAIOP
COMMERCIAL REAL ESTATE
DEVELOPMENT ASSOCIATION
COLORADO CHAPTER

Thursday, September 29th, 2016
3:00pm - 6:30pm

Denver Curling Club
14100 W. 7th Avenue
Golden, CO 80401

Thursday, September 29
3:00 pm – 6:30 pm
Denver Curling Club

Registration Opens Soon!

Visit our website at [NAIOP-Colorado.org/](http://NAIOP-Colorado.org/WinterClassic)
[WinterClassic](http://NAIOP-Colorado.org/WinterClassic) for more details.

DONATE OR PARTICIPATE!



Saturday, September 10
8:00 am – 11:00 am
Urology Center of Colorado

Sign up to Participate OR
Make A Donation!

Visit our website at [NAIOP-Colorado.org/](http://NAIOP-Colorado.org/WinterClassic)
WinterClassic for more details.

DATE CHANGE



Election Update Breakfast
Tuesday, September 20
Denver Marriott City Center
7:00 am – 9:00 am

Visit NAIOP-Colorado.org for More Information.

SAVE THE DATE!

NAIOP Colorado

FIGHT 2016 *Night*

*Raffle Proceeds Benefit Denver Active
20-30 Children's Foundation*

Thursday, October 13

5:30 pm – 10:30 pm

Infinity Park Event Center

- Featuring NEW “White Collar Brawlers” Bout!
- Over \$50,000 in Raffle Prizes!
- FREE After Party!
- Limited Tickets!

Visit NAIOP-Colorado.org/Fight-Night for More Information.

The NAIOP logo consists of the letters "NAIOP" in a bold, green, sans-serif font.

COMMERCIAL REAL ESTATE
DEVELOPMENT ASSOCIATION

The logo for the 2016 Commercial Real Estate Conference features a grid of colored squares (green, brown, grey) to the left of the year "2016" written vertically. To the right, the words "Commercial Real Estate" are in a bold, black, sans-serif font, followed by "CONFERENCE" in a larger, spaced-out, black, sans-serif font. Below this, the tagline "deals > connections > trends" is written in a smaller, black, sans-serif font.

2016 Commercial Real Estate
CONFERENCE
deals > connections > trends

Register now to make deals, strengthen connections and explore trends with 1,200+ CRE leaders from across North America.

September 26 - 28
Scottsdale, Arizona

Visit NAIOP.org
for more details
or to register.

Presented by NAIOP Colorado and Holland & Hart LLP



Building A Better **COLORADO**

2016 Educational Series: An In-Depth Look at Four Critical Topics Impacting Today's Real Estate Industry