

NONPROFITS

Nonprofits face many tax accountability issues



KATHLEEN LAVINE | BUSINESS JOURNAL

Lorni Sharrow, a nonprofit attorney at Moyer White LLP in Denver, walks through the Fairmount Cemetery in Denver, a client. Sharrow says a public cemetery has unique issues as a nonprofit concerning tax-exempt charitable donations and bequests, along with many industry and state regulations that must be followed. "As Fairmount's attorney, I must also be able to represent them on such rules and regulations, as well as employment issues and other business matters," she says.

BY COREY WARD

DENVER BUSINESS JOURNAL

There's little difference between for-profit companies and nonprofits, according to Lorni Sharrow, an attorney at Moyer White LLP in Denver, who worked in nonprofits for 15 years before practicing law.

"Operating nonprofits is operating a business," she said. "You have to cover expenses every year, but if you make a profit, it gets funneled back into the business. Nonprofits just have that added component of being vigilant of staying in nonprofit purposes which provide that tax exemption."

Sharrow works with nonprofit organizations as an advocate and counselor, advising on business structure, tax issues, business strategy, fiduciary responsibility, gift structuring, achieving and maintaining tax-exempt status, and regulations. She also oversees internal and external audits.

'All nonprofits have to pay attention to activities which will **jeopardize** your tax exemption.'

Lorni Sharrow
attorney, Moyer White LLP

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"All nonprofits have to pay attention to activities which will jeopardize your tax exemption," Sharrow said. "There's always an important teamwork between accountants, auditors and attorneys, because nonprofits, for grant purposes, will often have their financial statements audited every year."

Nonprofit attorneys can be valuable advisers to organizations that choose to involve them in strategic planning or on their boards of directors.

"What a nonprofit, in its infancy, believes is a charitable purpose can just be a business and not charitable at all," Sharrow said.

Renny Fagan, president and CEO of the Colorado Nonprofit Association, agrees that hiring a nonprofit attorney is a smart move.

"Hiring a lawyer to start a nonprofit can be helpful to ensure that the nonprofit follows the necessary requirements to incorporate in Colorado and to obtain tax-exempt status from the IRS," he said.

Fagan notes that while some startup nonprofits can't afford an attorney and can do some activities without one, "engaging a lawyer trained in nonprofit law may avoid many future problems."

That's true in Sharrow's case. She's on retainer with some larger nonprofits, but also does pro bono work for smaller ones.

Many large nonprofits have budgeted for legal services, but smaller ones might consult an attorney only when there's an immediate legal concern.

"I don't find organizations taking advantage of pro bono services," Sharrow said. "In fact, I find them to be very respectful, almost to their own detriment."

The world of nonprofits is highly regu-

lated, and so they need the help of attorneys, Sharrow said.

For example, "For an organization that is going to solicit funds for charitable purposes, Colorado requires registration with the Colorado attorney general," Sharrow said. "This is a very important step."

She said charitable giving has been down during the recession, but many nonprofits have found ways to deal with fewer donations.

"I see nonprofits being very responsible

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president and CEO, Colorado Nonprofit Association

with planning strategies, being aware of the market, aware of the needs, and planning accordingly," Sharrow said. "I think some nonprofits have made it through quite successfully due to their planning."

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Lorni Sharrow Helps Fairmount Cemetery Celebrate Lives Well Lived

Moye White attorney **Lorni Sharrow** is more than Fairmount Cemetery's lawyer; she's an ardent fan. To Lorni, Fairmount is living history, an arboretum, a home to ancient roses, and the first apiary in Denver.

A fifth generation Coloradoan with over 21 years of experience working with nonprofits, Lorni helps Fairmount preserve its past and plot its future by navigating the special business and tax challenges faced by a nonprofit cemetery.

Moye White recognizes Lorni's commitment to Fairmount, and celebrates Fairmount's special place in the heart and history of Denver. Learn more about Fairmount at fairmount-cemetery.com

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GREEN LAW



KATHLEEN LAVINE | BUSINESS

Janet Lawler McDaniel is a LEED-certified construction attorney at Benjamin Bain Howard & Cohen. She says there are a lot of new sustainable products that come on the market, but sometimes they're untested.

'Green' a new practice focus

BY DANA PALMIE
DENVER BUSINESS JOURNAL

As architects and builders strive to create more sustainable buildings, a new breed of interdisciplinary, green-oriented lawyers is emerging. They seek to ensure that buildings are as environmentally sound as possible, and part of that is choosing the correct materials from an ever-expanding market.

"What we often see is that there are a lot of new materials that have been developed in the recent past to help projects be more sustainable," said Janet Lawler McDaniel, a construction attorney with Benjamin, Bain, Howard & Cohen LLC in Greenwood Village. "But we get a new product that sounds great, but hasn't been tested and hasn't been installed before, which can result in a design issue or construction issue."

When conflicts arise as unpredictable products fail to function as expected, a lawyer may be called in to litigate — as in any construction case. But for a green building to be successful, a lawyer well versed in what's required to achieve green building certifications should be involved from the beginning.

Certifications, which often come with energy savings and incentives, were created to encourage sustainable building practices. Green building became more common when the U.S. Green Building Council developed the Leadership in Energy and Environmental Design (LEED) certification system in 1998.

Although there are other green certification systems in place throughout the country, LEED is the most frequently used today, McDaniel said.

To become certified, a building must earn enough points to meet LEED standards, which include distance from public transportation systems, whether the site had previous development, recycling of building materials and the energy efficiency of the finished building.

"The most important thing to understand is that you can't just hire an architect or contractor and say, 'OK, build me a LEED-certified building and tell me when it's done,'" McDaniel said.

An owner's active involvement in the project is crucial because of the countless small ways a building can earn points

toward LEED certification, which require frequent decisions. Knowledge of all of these considerations is so rare, only 23 Colorado lawyers, including McDaniel, are certified.

"A lot of people only think of the sexy stuff like putting a solar panel on the roof or getting a wind turbine, which is why a lot of people don't think it will be worth the investment," said Carolynne White, a LEED-certified attorney with Brown-

'The most savings for the investment [in LEED certification] come from things like better insulation, better windows, caulking and efficient HVAC systems. When you look at those as a package and look at the whole building, at the end of the day it is worth your while.'

Carolynne White

LEED certified attorney, Brownstein Hyatt Farber Schreck LLP

stein Hyatt Farber Schreck LLP in Denver. "The most savings for the investment come from things like better insulation, better windows, caulking and efficient HVAC systems. When you look at those as a package and look at the whole building, at the end of the day it is worth your while."

Along with saving money on energy bills, LEED-certified buildings typically have higher lease rates and often are leased faster than nongreen buildings.

"Consumers have become more aware of the environment, and these efforts are related to the public discussion about global warming," White said. "But the thing is that it makes sense to be more efficient, whether you believe in global warming or not, especially if it saves you money."

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