

GARY L. COLE AIA, ESQ.

ATTORNEY & ARCHITECT

ARBITRATOR & MEDIATOR CURRICULUM VITAE

300 NORTH LASALLE STREET, SUITE 4925, CHICAGO, ILLINOIS 60654
GARYCOLE@GARYLCOLELAW.COM / (312) 404-6155 / WWW.GARYLCOLELAW.COM

ARBITRATOR AND MEDIATOR SERVICES SUMMARY

Gary L. Cole AIA, Esq. is a Chicago based Illinois and Florida licensed attorney (20 years), and Illinois licensed architect (25 years). He draws upon his dual expertise in law and architecture to provide mediator and arbitrator services for parties in construction, real estate, commercial, ADA and historic preservation disputes. His combined legal and construction industry experience allows him unique insights into disputes that result in fairer arbitration awards and mediations with a high record of settlement. His dual professional backgrounds allow him to fluently communicate with disputing parties and their counsel in the industry-specific languages of law, design and construction.

He is also an experienced member of the American Arbitration Association's (AAA) construction and commercial panels of arbitrators and mediators, including its Fast Track, Regular Track, Large, Complex Construction Dispute Panel and its Large Complex Commercial Dispute Panel. He can also serve *ad hoc* as arbitrator and mediator if so requested.

Mr. Cole serves the Chicago and wider Illinois areas, frequently travels out-of-state to serve as arbitrator and mediator, and can travel anywhere in the United States to provide mediation and arbitration services. Mr. Cole can accommodate court-ordered and short notice mediations, depending on the specifics and timing.

ARBITRATOR AND MEDIATOR EXPERIENCE

Gary L. Cole AIA, Esq. has served as an arbitrator in many construction, commercial and real estate disputes, and as a mediator in over sixty-five (65+) construction, commercial and real estate-related disputes ranging from \$25,000 to over \$15,000,000 in claims and involving a wide variety of complex dual-party and multi-party claims and counterclaims under American Institute of Architects (AIA) and other industry-standard and custom construction agreements and real estate documents. He has served as arbitrator in complex multi-party disputes with arbitration hearings lasting up to thirteen (13) days in length, and has served as Chair Arbitrator for a complex arbitration involving domestic and international parties.

DISPUTING PARTIES have involved owners, architects and designers, contractors, subcontractors, lenders and borrowers, tenants and landlords, condominium associations, local governments and federal agencies for projects involving the construction of commercial development, retail facilities, hotel, restaurants, public and private educational institutions, modular commercial and student housing development, mid-rise student housing, mixed-use high rise development, industrial developments, sustainable energy developments, county courthouse and jails, federal courthouse, senior community with independent and assisted living developments, multi-family and single-family development, and general lender-borrower real estate and condominium properties.

DISPUTE ISSUES have involved contract performance failure and breach, claims involving design and construction defects, material and structural failure, change order disputes, uncompleted punch list issues, HVAC non-performance, scheduling and delay claims, non-payment and mechanics lien claims, cost overruns, unforeseen site conditions including foundation and caisson issues, fraud allegations, code compliance, partnership development agreement issues, alleged intellectual property and related copyright infringement issues, foreclosure, loan modification and asset relinquishment, and a wide range of other construction and commercial claims and disputes.

APPROACH AS AN ARBITRATOR

Mr. Cole believes that as an arbitrator he can best understand the legal claims and highly technical details of real estate and construction disputes by combining his expertise in law and architecture to thoroughly familiarize himself with the facts, allegations and technical details of parties' disputes. Prior to arbitration hearings, Mr. Cole examines parties'

claims, counterclaims and pre-hearing evidentiary submissions, which allows him to clearly understand the parties' allegations, arguments and evidence presented at arbitration hearings and to issue informed and fair awards.

He has complete familiarity with design, construction and real estate industry documentary evidence, including construction documents and specifications, project manuals, bid documents, photo-documentary evidence, change orders, project scheduling and administrative records, expert testimony and forensic reports, material samples, real estate agreements and recorded documents of a wide variety, and conducts on-site existing conditions inspections as requested.

PHILOSOPHY AND APPROACH AS A MEDIATOR

Though Mr. Cole tailors his mediation approach to the specifics of each dispute and the wishes of parties and their counsel, he generally combines his "Evaluative Mediation" philosophy and approach with his dual backgrounds in law and architecture to resolve legally and technically complex construction and real estate disputes.

From the first pre-mediation conference call with the parties through the execution of settlement agreements, Mr. Cole repeatedly states his first objective as the parties' evaluative mediator: that the parties leave the mediation conference with signed settlement agreements.

Mr. Cole's Evaluative Mediation approach draws on his dual backgrounds in law and architecture to carefully examine the parties' pre-mediation conference claims itemizations and pre-mediation document submissions to understand the facts and documentary evidence surrounding a dispute.

During this review he prepares a summary of his evaluations of the strengths and weaknesses of the parties' respective positions, which, prior to the mediation conference, Mr. Cole separately and confidentially discusses with each party.

These confidential and *ex parte* discussions permit parties to prepare for and attend mediation conferences with evaluations of their positions by a third-party neutral who is both an attorney and a construction professional, thereby providing them with additional insights when considering settlement options.

Since he is also an experienced arbitrator, Mr. Cole is able to evaluate possible arbitration outcomes for the parties if their disputes are not settled in mediation. This allows parties to evaluate and consider whether a mediated settlement is in their best interest, or whether binding dispute resolution such as arbitration or litigation offer better possible outcomes.

The majority of Mr. Cole's mediations result in settlement, and the majority of those settlements are reflected in settlement agreements executed at mediation conferences. In some cases, the complexities of the dispute and time considerations require the parties to continue their negotiations post-mediation conference. In such cases, and upon the agreement of the parties, Mr. Cole continues in his role as mediator to assist in resolving all remaining issues and reaching settlement.

ARBITRATOR AND MEDIATOR FEES

(Please contact Mr. Cole to discuss his current fees for specific disputes.)

Mr. Cole intentionally keeps his arbitrator and mediator fees very market competitive, and, drawing on his extensive experience as an attorney and licensed architect brings substantial and unique value to his services as arbitrator and mediator. He bills at both an hourly rate for his time spent administering and preparing for arbitration hearings and mediation conferences, and, a flat rate for each day of hearing or conference.

Mr. Cole will travel anywhere in the continental United States as arbitrator and mediator at no cost for either travel time or direct travel expenses to parties for arbitration hearings or mediation conferences that last three (3) days or more. For arbitration hearings or mediation conferences lasting one (1) or two (2) days, direct reimbursable travel expenses and reasonable travel time are billed to the parties as agreed upon between Mr. Cole and the parties at the commencement of his services.

He charges no cancellation fee for written cancellations received more than forty-eight (48) hours prior to the scheduled commencement of any arbitration hearing or mediation conference, unless reimbursable travel expenses are involved.

GARY L. COLE AIA, ESQ.

ATTORNEY & ARCHITECT

ARBITRATOR & MEDIATOR CURRICULUM VITAE

300 NORTH LASALLE STREET, SUITE 4925, CHICAGO, ILLINOIS 60654
GARYCOLE@GARYLCOLELAW.COM / (312) 404-6155 / WWW.GARYLCOLELAW.COM

PROFESSIONAL LICENSURE

Attorney: Illinois (1998) / Florida (2001)

Architect: Illinois (1993)

EDUCATION & AWARDS

LOYOLA UNIVERSITY CHICAGO SCHOOL OF LAW (*Juris Doctor* 1998)

- Editor of the *Journal of the National Association of Administrative Law Judges*
- *American Jurisprudence Award* for highest grade in *Comparative International Law*
- Dean's List
- Studied abroad at the *Loyola Rome Center for International Studies*

UNIVERSITY OF ILLINOIS AT URBANA-CHAMPAIGN (*Master of Architecture* – Historic Preservation 1992)

- Recipient First Place *Charles E. Peterson Prize*
- Recipient First Place *Edward C. Earl Prize*
- Dean's List
- Graduate Teaching Assistant

UNIVERSITY OF ILLINOIS AT CHICAGO (*Bachelor of Architecture* 1988)

- Graduated with *Distinction in Design*
- Recipient *Talent Tuition Scholarship*
- Recipient *Pillsbury Traveling Scholarship*
- *Golden Key National Honor Society*
- *Phi Eta Sigma Honor Society*
- Studied a year abroad at *L'Ecole D'Architecture Et D'Urbanisme De Versailles, France*

PROFESSIONAL MEMBERSHIPS

- Member of the *American Institute of Architects, Historic Resources Committee*
- Member of the *National Trust for Historic Preservation*
- Member of the *American Arbitration Association's Roster of Construction and Commercial Arbitrators and Mediators*

ATTORNEY & ARCHITECT PROFESSIONAL HISTORY

- Attorney - Owner, *Gary L. Cole AIA, Esq.* (Construction, Real Estate, Historic Preservation, Accessibility, Arbitration & Mediation)
- Attorney - *Bryant Miller Olive, P.A.* (Construction, Real Estate, Accessibility)
- Attorney - *The Sembler Company* In-House Counsel (Corporate, Finance, Real Estate Development)
- Attorney - *Seyfarth Shaw LLP* (Construction, Real Estate, Accessibility, Historic Preservation)
- Attorney - *Gunster, Yoakley & Stewart, P.A.* (Construction, Real Estate, Historic Preservation)
- Attorney - *Winston & Strawn, LLP* (Construction, Real Estate, Historic Preservation)
- Attorney - *D'Ancona & Pflaum LLC* (Construction Litigation, Real Estate, Historic Preservation)
- Architect - *University of Illinois at Urbana-Champaign* (Visiting Associate Professor of Architecture)
- Architect - *Bauer Latoza Studio*
- Architect - *Illinois Historic Preservation Agency*
- Architect - *Gary L. Cole AIA, Architect*
- Architect - *The Riddle Group*

UNIVERSITY TEACHING & NON-PROFIT ORGANIZATION BOARD EXPERIENCE

- Visiting Associate Professor of Architecture at the *University of Illinois at Urbana-Champaign, Graduate School of Architecture* (1993 – 2001)
- Instructor at the *School of the Art Institute, Chicago, Graduate Historic Preservation Program* (1995)
- Founding Board Member and General Counsel of *The Chicago-Midwest Chapter of the Institute of Classical Architecture & Classical America* (2009 – 2010)
- Founding Board Member of *The Jefferson Society* for holders of both law and architecture licenses (2012 – 2014)

SELECT PUBLIC SPEAKING

- *Half Moon Education, Inc., Chicago* (2011) – “Arbitration and Mediation for Architects”
- *NCSBN Keynote Speaker, Chicago* (2011) – “Case Construction: Parallels Between Law and Architecture”
- *Traditional Building Conference, Chicago* (2010) – “Beyond Tax Credits for Historic Rehabilitation”
- *Traditional Building Conference, Chicago* (2010) – “Avoiding Legal Liability When Preservation Goes Green”
- *American Institute of Architects, Chicago Chapter Historic Resources Committee* (2010) – “Expanding Your Services: Become an Historic Rehabilitation Economic Incentives Consultant”
- *American Institute of Architects – Renew Tampa” Conference* (2008) – “The Rise of the Green Building Ordinance”
- *American Institute of Architects, Chicago Chapter Historic Resources Committee* (2003) – “Legal Skills for Architects”
- *Miami Design and Preservation League, Art Deco Weekend* (2003) – “Rehabilitation Economic Incentives”
- *Restoration '97 National Preservation Conference* (1997) – “Legal Issues of Architectural Salvage”
- *VI Foro International Patrimonio Arquitectonico, Cartagena, Colombia* (1996) – “Chicago Historic Preservation”
- *Restoration '96 National Preservation Conference* (1996) – “Careers in Preservation-The Architect’s View”
- *Illinois Statewide Preservation Conference* (1995) – “Historic Building Assessment Fundamentals”
- *Restore – National Masonry Conference* (1994) – “Structural Assessment of Flood Damaged Historic Buildings”
- *Illinois Statewide Preservation Conference* (1994) – “Assessing Flood Damaged Historic Structures”

SELECT PRINT PUBLICATIONS

(Other online publications at www.garylcolelaw.com)

- *Licensed Architect* (2011) – “Mediation and Arbitration 101 for Architects”
- *Licensed Architect* (2010) – “Professional Services for Architects: Finding Ways to Pay for Historic Rehabilitation”
- *Retail Law Strategist* (2004) – “Proposed Revisions to the ADA”
- *Illinois Institute for Continuing Legal Education* (2006) – “Land Use – Historic Preservation Law”
- *Heartland Real Estate Business* (2004) – “Minimizing the Risk of ADA Lawsuits”
- *Heartland Real Estate Business* (2003) – “A Lesson in Historic Properties”
- *Florida Journal of Real Estate* (2002) – “Financial Incentives for Historic Properties”
- *Midwest Real Estate Journal* (2002) – “Financial Incentives Help Preserve Historic Properties”
- *Journal of the National Association of Administrative Law Judges* (1997) – “State Court Invalidation of a Federal Regulation”
- *Urban Lawyer* (1996) – “Recent Developments in Historic Preservation and Architectural Control Law,” co-author