



AAA Mediation.org™

## Gary L. Cole AIA, Esq., Esq.

444 W. Lake St., Suite 1700, Chicago, IL 60606

### Primary Areas of Expertise

Construction and Design Law  
Real Estate and Development  
Consumer Law  
Commercial and Transactions

**Current Employer-Title** The Law Office of Gary L. Cole AIA, Esq., Attorney & Architect – Principal and Owner

**Profession** Attorney, Licensed Architect, Arbitrator, Mediator, Expert Witness and Consultant.

### Work History

#### AS ILLINOIS AND FLORIDA LICENSED ATTORNEY

Principal and Owner, The Law Office of Gary L. Cole AIA Esq., 2008 – Present.  
In-House and Outside Counsel for Florida Real Estate Developer, The Sembler Company, 2005 – 2008.  
Construction, Real Estate and ADA Attorney, Seyfarth Shaw LLP, 2002 - 2005  
Construction and Real Estate Attorney, Gunster, Yoakley & Stewart 2001 - 2002  
Construction and Real Estate Attorney, Winston & Strawn, LLP 2000 - 2001  
Construction Litigation Attorney, D'Ancona & Pflaum 1998 - 2000

#### AS ILLINOIS LICENSED ARCHITECT

Visiting Associate Professor of Architecture, Graduate School of Architecture at the University of Illinois, 1993 – 2001.  
Intern and Licensed Architect at various Chicago and Illinois architectural firms, 1988 – 1998.  
Bauer Latoza Studio, 1995.  
State of Illinois Historic Preservation Architect, 1992 – 1994.  
Owner, Cole Architects, 1988 – 1998.  
The Riddle Group Architects, 1988 – 1990.

### Experience

#### EXPERIENCE SUMMARY

Combines Construction Attorney, Real Estate and Commercial Attorney and Licensed Architect experience to provide arbitrator and mediator services for AAA Fast Track, Regular Track and Large Complex Construction and Commercial Arbitrations and Mediations.

Practiced real estate transactions and finance, development financial incentives, construction and commercial transactions law at large Chicago and Florida law firms, and as a real estate finance, leasing, and development In-House Counsel at a large Florida commercial, residential, and mixed-use developer.

#### SUMMARY OF CONSTRUCTION ATTORNEY EXPERIENCE

Has extensive experience drafting and negotiating complex design, engineering, construction, construction supply and construction management agreements, including American Institute of Architects (AIA) agreements. Has provided a broad range of design/construction-related transactional and dispute-resolution legal services for architects, owners, contractors, subcontractors and construction trades. Has experience with national and international construction agreements for

projects ranging from \$1 million to \$2.3 billion in cost. Prepared AIA contracts for a \$50 million public infrastructure project.

Has represented a diverse range of clients in many types of large, medium and small construction and real estate disputes and commercial matters. Projects types include high-end single-family residential, multi-family residential, mixed-use retail and residential, shopping centers and big-box retailers, office, commercial, storage, national chain restaurants, luxury and historic hotels, banks, commercial and residential historic rehabilitation tax credits and incentives, historic preservation regulatory compliance, hospitals, senior and assisted living, public and private school districts, large universities, municipalities, telecom, solar power, industrial, and infrastructure development.

#### SUMMARY OF COMMERCIAL AND REAL ESTATE ATTORNEY EXPERIENCE

Has represented private sector clients in a wide range of real estate and real estate development matters including: drafting purchase and sale agreements, negotiating leases, reviewing and negotiating finance documents, addressing property owners' association governance issues, drafting condominium agreements, for commercial, office, industrial, residential properties, and "big box" retail and shopping centers, and telecommunication properties. Negotiated various development financial incentives including Tax-Increment Financing grants and local, state and federal tax benefit incentives. Prepared real estate and power purchase agreements for a public utility solar array development.

Was In-House Counsel for large retail and mixed-use developer active throughout the southeast United States and Puerto Rico. Lead attorney on retail projects up to 1,150,000 square feet in size consisting of national "big box" retailers, in-line retail, restaurants, retail banking and national outparcel users, grocery and drug store chains. Negotiated and prepared leases and disposition and acquisition documents for retail properties valued at more than \$600 million. Drafted construction and permanent financing documents for more than \$750 million in development, and for \$50 million in special district public bonds for infrastructure development. Addressed development approvals, permitting, platting, land use and environmental matters. Addressed formation and corporate governance issues for real estate development entities.

#### **Mediator Experience**

Draws upon dual backgrounds and experience as attorney and licensed architect to provide Certified Mediator and arbitrator services for the AAA's construction and commercial Fast Track, Regular Track and Large, Complex Construction and Commercial Panels.

Has successfully served as Certified Mediator and arbitrator in over 90 mediations and arbitrations in the Chicago area, Central Illinois and neighboring Midwestern states including Iowa, Wisconsin and Indiana, and has conducted remote mediation conferences via Zoom, including a party attending the mediation conference from Australia. Can serve as Certified Mediator and arbitrator in any location within or outside the United States, either in-person or by Zoom or similar platform.

As Certified Mediator has successfully settled many two-party, three-party and four-party and complex multi-party mediations requiring from 1-5 days of mediation conferences. Has served as arbitrator in disputes requiring 13 days of in-person hearings, and as Chair Arbitrator in Large, Complex Construction arbitrations requiring 6 days of remote hearing via Zoom platform.

**PARTIES AND PROJECT TYPES:** Served as Certified Mediator and arbitrator for construction and real estate disputes involving lenders, borrowers, developers, owners, architects, designers, contractors, subcontractors, consultants, tenants, landlords, condominium associations and their Declarations of Covenants, Conditions, Restrictions, and By-laws, local governments and federal agencies. Project types have included commercial development, retail facilities, hotels, restaurants, county courthouse and jails, sports facility, federal courthouse, industrial and sustainable energy developments, public school districts and private educational institutions, modular and stick-built mixed-use and mid-rise commercial and student housing, high-rise residential condominium and commercial development, senior community and assisted living developments, multi-family residential, mid-to high-end single family residential projects.

**DISPUTED DESIGN AND CONSTRUCTION ISSUE TYPES:** Disputed design and construction issues include contract breach and performance issues under American Institute of Architects (AIA) and many other industry-standard and custom construction agreements, as well as claims involving design and construction defects, material and structural failure, change order disputes, uncompleted

punch list issues, HVAC performance and failure, plumbing and electrical defects, surface drainage issues, sports facility ice rink refrigeration failure, roofing defects and failure, concrete parking deck defects and failure, water infiltration and damage, wood flooring defects, concrete flooring defects, residential wind load structural defects, code compliance, fraud allegations, scheduling and delay claims, non-payment claims, mechanics liens, cost overruns, concrete and masonry failure, foundation and caisson issues, unforeseen conditions, partnership agreements, intellectual property and related copyright infringement claims, foreclosure, loan modification and asset relinquishment, and a wide range of other design and construction disputes.

**DOCUMENTARY AND PHYSICAL EVIDENCE EXAMINATION:** As an attorney and architect, has extensive experience preparing and reviewing design, construction industry and real estate documentary evidence, including construction drawings and other contract documents, specifications, project manuals, bid documents, change orders, pay requests, photo-documentary evidence, material samples, critical path and project schedules, expert forensic reports, legal entity formation documents, condominium formation and management documents, purchase and sale agreements, easements and development agreements.

## **Mediator Style & Process Preferences**

### **EVALUATIVE / FACILITATIVE MEDIATION APPROACH**

Draws from backgrounds as an experienced construction and real estate attorney, and licensed architect to provide a successful "Evaluative/Facilitative" mediation approach, which includes examining the parties' pre-mediation conference document submissions to understand and evaluate each party's allegations, arguments and documentary evidence to facilitate the primary goal of parties leaving mediation conferences with signed settlement agreements. Believes that anything less, such as nonbinding writings of settlement intent, are less likely to ensure the timely execution of binding settlement agreements.

### **CONFIDENTIAL PRE-MEDIATION CONFERENCE STRENGTH & WEAKNESS EVALUATIONS**

Prior to a mediation conference, discusses separately and confidentially with each party their positions and goals along with the confidential evaluations of each party's position, strengths and weaknesses based on a review of the parties' document submissions. These discussions allow the parties to consider the best approach for navigating the mediation process and achieving a successful settlement.

During the mediation conferences, guides the parties through discussions of the more legally and technically problematic aspects of their disputes. These discussions, along with the confidential pre-mediation conference evaluations of each party's position, strengths and weaknesses, allows the parties to continuously evaluate and adjust their positions and their settlement options as the mediation conference progresses.

Tailors each mediation's approach to the details of the dispute and desires of parties and their counsel to achieve the best opportunity for resolution and settlement.

## **Technology Proficiency**

### **REMOTE HOSTING OF ARBITRATION HEARINGS AND MEDIATION CONFERENCES**

Frequently hosts Arbitration Hearings and Mediation Conferences remotely with own Zoom account at no charge to parties.

Familiar with online platforms such as LoopUp, GoToMeeting and other online platforms. Has successfully conducted remote Arbitration Hearings and Mediation Conferences with parties located in-state, out-of-state and internationally.

### **ELECTRONICALLY STORED INFORMATION (ESI).**

Since 2015 has required that all files and documents related to Arbitrations and Mediations are securely delivered in electronic and not paper form for the convenience of the parties and ease of review and word searching in preparation for Arbitration Hearings and Mediation Conferences. All files and documents are archived securely.

### **CYBERSECURITY AND PRIVACY**

Ensures that from the Preliminary Management Hearing with Parties that AAA's best practices for Cybersecurity and Privacy are observed during all Arbitrations and Mediations.

## Education

### LEGAL EDUCATION

Loyola University Chicago School of Law (Juris Doctor 1998). Dean's List, Senior Editor of the Journal of the National Association of Administrative Law Judges. Attended Loyola's Rome Center for International Studies in 1997. Received the American Jurisprudence Award for Highest Grade in Comparative International Law.

### ARCHITECTURAL EDUCATION

University of Illinois at Urbana-Champaign (Master of Architecture 1992.) Graduate Teaching Assistant, Dean's List, First Place Charles E. Peterson Prize, and First Place Edward C. Earl Prize in Architecture.

University of Illinois at Chicago (Bachelor of Architecture 1988). Dean's List, Graduated with Distinction in Design, Phi Eta Sigma Honor Society, Golden Key National Honor Society, Pillsbury Travelling Scholarship, and the Talent Tuition Scholarship. Attended L'Ecole D'Architecture Et D'Urbanisme De Versailles, France (1985-1986).

## Professional Licenses

Admitted to the Bar: Illinois (1998), Florida (2001).  
Architect licensed in Illinois (1993).

## Professional Associations

The Illinois Bar, The Florida Bar, the American Institute of Architects (AIA), the National Trust for Historic Preservation.

## Recent Publications & Speaking Engagements

PUBLICATIONS. Has published numerous law and construction trade journal articles, most recently the following: "Replacing the Secretary's Standards," Traditional Building Magazine, April 2013; "Mediation and Arbitration 101 for Architects, Engineers and Contractors," Licensed Architect (ALA), March 2011; "New Services for Architects: Helping Clients Discover Ways to Pay for Historic Rehab Projects," Licensed Architect (ALA), September 2010; "Land Use - Historic Preservation Law," Illinois Institute for Continuing Legal Education, 2004/2006; "Proposed Revisions to the ADA," Retail Law Strategist, October 2004; "Minimizing the Risk of ADA Lawsuits," Heartland Real Estate Business, January 2004.

SPEAKING ENGAGEMENTS. Has spoken at local, state, national and international conferences on a variety of design and construction, green building, and historic preservation--related subjects during career, including: "Arbitration and Mediation for Architects," Half-Moon Productions CE seminar, Chicago 2011; "Case Construction: Parallels Between Law and Architecture," NCSBN Keynote Speaker, Chicago 2011; "Beyond Tax Credits for Historic Rehabilitation," Traditional Building Conference, Chicago 2010; "Avoiding Legal Liability When Preservation Goes Green," Traditional Building Conference, Chicago 2010; "Expanding Your Services: Become an Historic Rehabilitation Economic Incentives Consultant," American Institute of Architects - Chicago Chapter Historic Resources Committee, 2010; "The Rise of the Green Building Ordinance," American Institute of Architects - "Renew Tampa" Conference, 2008; "Legal Advocacy Skills for Architects," American Institute of Architects - Chicago Chapter Historic Resources Committee, 2003; "Rehabilitation Economic Incentives," Miami Design and Preservation League, Art Deco Weekend, 2003; "Legal Issues of Architectural Salvage," Restoration 97 National Preservation Conference, 1997; "Chicago Historic Preservation," VI Foro Internacional Patrimonio Arquitectonico, Cartagena, Colombia, 1996; "Careers in Preservation-The Architect's View," Restoration 96 National Preservation Conference, 1996; "Historic Building Assessment Fundamentals," Illinois Statewide Preservation Conference, 1995; "Structural Assessment of Flood Damaged Historic Buildings," Restore - National Masonry Conference, 1994; "Assessing Flood Damaged Historic Structures," Illinois Statewide Preservation Conference, 1994; "19th C. Historic Sidings v. 20th C. Artificial Sidings," Illinois State Preservation Conference, 1993.

## Mediation Rate

\$2,800 Per Day

## Languages

English

United States of America

## **Citizenship**

### **Locale**

Chicago, IL

The AAA's Rules provide the AAA with the authority to administer a mediation including, mediator appointment, general oversight and billing. Accordingly, mediations that proceed without AAA administration are not considered AAA mediations, even when the parties select an mediator who is on the AAA's Roster.

The information contained in this resume has been supplied solely by the individual mediator and may, or may not, be a complete recitation of their experience. The AAA assumes no responsibility for the content, completeness, accuracy, or reliability of the information contained in a mediator's resume. If you have any questions about a mediator's experience or background, you are encouraged to contact your case manager.

Mediators on the AAA Roster are not employees or agents of the AAA.