



HB08-1353 Implementation Update

While full implementation of HB08-1353 will take some time, many pieces are moving very quickly! This email contains the latest information that we currently have about implementation.

Conservation Easement Oversight Commission

The Commission will advise the Division of Real Estate and Department of Revenue on conservation easement issues and, along with the Division of Real Estate, administer the easement holder certification program. The Commission was appointed in July 2008 and has since held meetings on September 8 and October 6, 2008. There are nine Commission members who include the following statutory representatives:

National or Statewide Land Trust: Dan Pike (Colorado Open Lands), Chair
Local Land Trust: Martha Cochran (Aspen Valley Land Trust), Vice-Chair
Great Outdoors Colorado: John Swartout
Landowner: Max Vezzani (rancher from Huerfano County)
Appraiser: Mark Weston (Hunsperger & Weston)
Local Government Open Space or Conservation Organization: Jay Winner (Lower Arkansas Valley Water Conservancy District)
Colorado Department of Agriculture: Cindy Lair
Colorado Department of Natural Resources: Doug Robotham
Historic Preservation Organization: (Remains Open)

CCLT will attend Commission meetings so that we are able to keep our members as informed as possible about the HB08-1353 implementation process. Information about the meetings will be available on our [HB08-1353 page](#) on our website.

Summary of September 8, 2008 meeting

The first meeting of the Conservation Easement Oversight Commission began with introductions of the

Table of Contents

[Conservation Easement Oversight Commission](#)

[Appraisal Review](#)

[Certification Process](#)

3rd Annual **Brews, Boots, and Bucks**

Nov. 6, 2008
Wynkoop
Brewing
Company,
Denver

Join CCLT in celebrating the conservation successes of 2008. Find information about sponsorship, Conservation First Club membership, and registration on our [website](#).

commissioners, the Division of Real Estate staff, and the representative counsel from the Colorado Attorney General. The Director of the Division, Erin Toll, then gave an overview of the Division's history, organization, and role in the conservation easement process.

After a background of the conservation easement tax credit program, HB08-1353, and the rulemaking process, the Commission and Division staff had a brainstorming session regarding the appraisal affidavit. The Commission also discussed the possibility of holding a meeting in southeastern Colorado to provide a forum for the residents in the region. The Commission agreed to hold a meeting in La Junta, CO at the Otero Junior College. This meeting will take place on November 10, 2008 at 12:30pm.

The Commission concluded their public session by unanimously agreeing that the Colorado Coalition of Land Trusts provide recommendations on what the conservation easement holder certification process should look like. Jill Ozarski, CCLT's executive director, thanked everyone for the opportunity and expressed her excitement at seeing HB08-1353 in motion.

Summary of October 6, 2008 meeting

The second meeting began with the Commission electing its chair, Dan Pike from Colorado Open Lands, and vice-chair, Martha Cochran from the Aspen Valley Land Trust. The Commission then discussed dates for future meetings. The following were agreed upon:

October 27, 2008 from 1:00pm - 3:00pm at the Division of Real Estate's office (1560 Broadway, Suite 925, Denver, CO).

November 10, 2008 at 12:30pm at Otero Junior College (1802 Colorado Ave., La Junta, CO) in the Student Center Banquet Room #116

Chairman Pike then asked the Division's staff to be prepared to talk about the appraisal affidavit aspect of HB08-1353 at the October 27th meeting.

The Conservation Easement Program Manager, Hollis Glenn, then went over the duties and responsibilities of the Commission which included creating a certification program, reviewing applications for certification, examination of transactions, and addressing any future issues.

Appraisal Review

Beginning July 1, 2008, all completed conservation easement appraisals (defined in HB08-1353 as including a certification page signed and delivered to client) must be submitted to the Division of Real Estate within 30 days of completion along with a \$600 fee and an affidavit signed by the appraiser noting certain requirements have been met. The initial affidavit, effective by emergency rule on August 8, 2008, is available [here](#). The Division will review the information in the affidavit and the Board of Real Estate Appraisers will impose suspensions or other penalties on the appraiser if the Division finds wrongdoing. Please note that this is not a pre-screening process and that the Division **will not** necessarily notify the landowner if it finds a problem with an appraisal. This was designed to have a deterrent effect on unscrupulous appraisers, so if the Division determines there is a serious problem with an appraisal it will send a complaint to the [Board of Real Estate Appraisers](#).

Additional classroom education and experience requirements will be set by the Board of Real Estate Appraisers for all appraisers who seek to complete a conservation easement appraisal for a state income tax credit.

The staff of CCLT recently attended a meeting of the Colorado chapter of the American Society of Farm Managers and Rural Appraisers and heard some confusion related to how the bill has changed the process for appraisers. CCLT is committed to working with appraisers, state agencies, and other informed and concerned stakeholders to make sure that the intent of the legislation is matched by its implementation. It is CCLT's current understanding that the language of the bill is clear: an appraiser need only submit a **completed appraisal** to the Division of Real Estate. A completed appraisal is defined by the legislation as an appraisal with a signed certification page that has been delivered to the client. Any other form of appraisal, such as verbal, or corrections made to appraisals, were not intended to constitute a "completed appraisal" under the bill.

The Division is currently working on rules for this issue and CCLT will work hard to ensure that the rules match the intent of HB08-1353 and do not result in an undue burden on appraisers or the appraisal process.

Certification of Conservation Easement Holders

The Division of Real Estate and the newly formed Conservation Easement Oversight Commission are in the process of developing a certification program for entities that hold conservation easements. The program will examine an entity's process for approving an easement and its system of monitoring those easements, as well as its governance and financial stability. An application fee (up to \$5,810.00) must be submitted at the time of an application. Beginning one year after the division commences accepting applications to certify a particular type of entity (the types being land trusts, state and local government programs, and historic preservation groups), that entity must be certified in order for the donor to receive a state tax credit for any donation.

Land trusts may submit applications for certification beginning January 1, 2009. The certification process will be established by emergency rulemaking in Fall 2008 and the formal rulemaking process will be designed with a March or April 2009 completion date in mind. CCLT will continue to provide updates on this front, including notices of any public hearings and the opportunity for comments. As the notes from the Conservation Easement Oversight Commission meetings suggest, we have been working closely with Division staff and expect the process to be based on key *Standards and Practices*. This matter will be discussed at the October 27, 2008 Commission meeting (details above).

State and local government entities and historic preservation groups may submit applications for certification beginning **January 1, 2010**. The certification process for these entities will be determined by rulemaking starting in 2009.