



NOVEMBER 26, 2008

Possible Increase in Fees to Certify Land Trusts and Government Entities

Colorado's Department of Regulatory Agencies (DORA) called an emergency meeting yesterday to announce that it has proposed the General Assembly remove the cap on fees set in HB1353, currently set at \$600 for appraisal filing and \$5,810 for certification of conservation easement holders.

CCLT knows this fee change could be a significant burden to the conservation community. This is a frustrating situation for all of us and CCLT will work hard to keep our membership informed and ensure an outcome that works for all parties. DORA needs secure funding to continue its enforcement role and ensure the integrity of the conservation easement tax credit program. However, we are encouraging them to reduce expenses and thus ensure that any fee increase be as minimal as possible. We have also recommended that the certification fee be paid in equal increments across the 3-year period to reduce the short-term financial impact on local land trusts.

Summary of Emergency CEOC Meeting

Rico Munn, the Executive Director of DORA, began his remarks to the Conservation Easement Oversight Commission by stating that the legislation created two funds: one for the appraisal review and one for the certification process. Both are cash-funded and are used to pay for staffing, meetings, travel expenses, and any other expenses to implement HB08-1353.

Director Munn offered four problems that currently make funding the conservation easement program problematic.

1. There is no structure to pay for start-up costs.
2. The fee cap for both funds prevents the controller from issuing a loan to pay for start-up costs.
3. No reliable predictor exists for when people will start paying in

and how much will be paid.

4. The funds are not allowed to be shifted; e.g. for a three-year certification process for which a land trust pays \$X, in year one only 1/3 of \$X is released to DORA to cover costs.

Director Munn then stated that the plan is to go to the legislature and get a bill that deals with the above issues, namely, remove the fee cap and figure out how to pay for the program. Director Munn also said that his office is looking very closely at the costs to determine what appropriate fees should be. His remarks were followed by preliminary questions by Commissioners about the state budgetary process.

Chairman Pike expressed a concern at pricing land trusts out of the certification process and wondered whether the Commission should get feedback from land trusts and local governments to see what an acceptable price might be.

Erin Toll, Director of the Division of Real Estate, then said that one option is for an annual licensing fee that would lower over time as more organizations are involved.

Commissioner Robotham asked whether the program could get any money from non-applicants. Executive Director Munn replied that it would still require a legislative process because it would have to go before the Joint Budget Committee.

Chairman Pike stated that it would be best to have solid numbers for fees and costs rather than looking at the legislature for a blank check. On the issue of costs, Commissioner Weston said that he thought \$200,000 in information technology costs seemed high. Executive Director Munn said that the costs were for an IT program that would be able to be up and running quickly and allow for the tracking of complaints as well as trends and data.

Commissioner Robotham asked whether a legislative fix opens up the program to broader examination, criticism, and change. Senator Isgar said he did not see any other option.

Chairman Pike asked whether any money could be taken as a fee from landowners claiming the tax credit and said he remembered the idea coming up during Fall 2007 Task Force meetings. He asked Jill Ozarski, CCLT's executive director, if she remembered what the answer to that option was. Ozarski said that a good answer was never received to that question, but that the Department of Revenue had thought it would be strange to get a credit and a send DOR a check at the same time.

Commissioner Winner asked who would sponsor a bill if one is ultimately needed. Executive Director Munn said that Representative Joel Judd has been approached about the possibility and that he hoped Senator Jim Isgar would be available on the Senate side.

The Commission then adjourned. The next schedule meeting is December 11, 2008 at the Division of Real Estate's office located at 1560 Broadway, Suite 925. The Commission will meet at 1:00pm.

For more information:

[CCLT's HB1353 information page](#)

[Fiscal note setting the original program budget](#)

CCLT's analysis indicates that the heart of the problem is this: The projected number of land trusts applying for certification and filed appraisals is far below HB1353's revenue projections. This, plus the fact that DORA needs revenue to cover up-front costs puts them in an impossible financial position.

I know this is a surprise and will be a challenge for the community. Therefore, please do not hesitate to call Jill Ozarski or Greg Yankee at CCLT if you have any questions.