

February 28, 2018 testimony before the House Transportation and
Energy Committee:

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The testimony mentioned is at 2 hours and 58 minutes.

HUNSPERGER & WESTON, LTD.

WAYNE L. HUNSPERGER, MAI, SRA
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Greenwood Village, Colorado 80111
(303) 741-5918 • Fax: (303) 741-2111

July 7, 2004

Brian Smith
Legendary Properties
1225 Ken Pratt Boulevard, Suite 121
Longmont, CO 80501

RE: Proposed Conservation Easement
Alan Gentz Property - 70 Acres +/- in unincorporated
Logan County, Colorado

Dear Mr. Smith:

On May 12, 2004, I inspected this property just outside Sterling, adjacent to and east of the Pawnee Ridge subdivision. The property consists of a recently-completed 7,257 square foot custom single family residence on approximately 70 acres. While most of the land remains vacant, it has been improved with a combination of water features (including two lakes), well-maintained open areas and a distinctive entry feature. The result is a very desirable country estate.

In addition, the property has significant residential development potential. It is crossed by an 8" sanitary sewer line connected to Sterling's wastewater treatment facility, and there is a 24" water main in County Road 30 along the entire southern boundary of the property.

According to a June 15, 2004 letter to Mr. Gentz from the Logan County Board of County Commissioners, the property is within an area of the county "that is a likely candidate for rezoning consideration." Also, "the proximity of this area to existing development and the available infrastructure makes it a logical place for future residential growth and development, which is very probably compatible with surrounding land uses and the general zoning plan."

Because of this significant development potential, encumbering the property with a conservation easement is likely to reduce its fair market value. The more restrictive the easement (limitations on subdivision and new structures), the greater the reduction in property value.

The amount of the reduction will of course need to be determined by a "qualified appraisal" prepared for the income tax purposes of the donor. First, the market value of the fee simple interest in the property, subject only to existing recorded exceptions to title, is estimated. Then, the market value of the property, subject to the terms and conditions of the conservation easement, is estimated as of the same date of value.

The value of the easement normally is the difference in the value of the property before and after conveyance of the conservation easement. This amount can be deducted from the donor's federal taxable income, and may also be used to obtain a Colorado income tax credit. There are various statutes and regulations that govern these kinds of gifts, so it is important for the easement donor to obtain professional legal and tax advice well in advance of making the gift.

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BRIAN SMITH
JULY 7, 2004
PAGE 2

Following, for your information, are pertinent portions of the Treasury Regulations (1.170A-14(h)) for valuing a qualified conservation contribution:

(3) Perpetual conservation restriction—(i) In general.

The value of the contribution under section 170 in the case of a charitable contribution of a perpetual conservation restriction is the fair market value of the perpetual conservation restriction at the time of the contribution. If there is a substantial record of sales of easements comparable to the donated easement (such as purchases pursuant to a governmental program), the fair market value of the donated easement is based on the sales prices of such comparable easements.

If no substantial record of marketplace sales is available to use as a meaningful or valid comparison, as a general rule (but not necessarily in all cases) the fair market value of a perpetual conservation restriction is equal to the difference between the fair market value of the property it encumbers before the granting of the restriction and the fair market value of the encumbered property after the granting of the restriction.

The amount of the deduction in the case of a charitable contribution of a perpetual conservation restriction covering a portion of the contiguous property owned by a donor and the donor's family is the difference between the fair market value of the entire contiguous parcel of property before and after the granting of the restriction.

If the granting of a perpetual conservation restriction after January 14, 1986, has the effect of increasing the value of any other property owned by the donor or a related person, the amount of the deduction for the conservation contribution shall be reduced by the amount of the increase in the value of the other property, whether or not such property is contiguous.

Please give me a call should you have any questions.

Sincerely,

HUNSPERGER & WESTON, LTD.



Mark S. Weston
Colorado Certified General Appraiser
CG01313166



DORA

Department of Regulatory Agencies

Division of Real Estate
Marcia Waters
Director

John W. Hickenlooper
Governor

Barbara J. Kelley
Executive
Director

NOTICE: PURSUANT TO SECTION 39-22-522(3.5)(b), C.R.S. and SECTIONS 39-21-113(4)(a) and (17), C.R.S., THIS DOCUMENT SHALL BE CONFIDENTIAL.

January 24, 2011

Reference #: 130

Donor: Alan Gentz

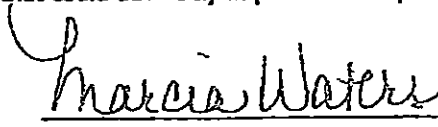
Year: 2006

Appraiser: Stewart

- In connection with C.R.S. Section 12-61-721(3) and Section 39-22-522(3.5)(a), the Conservation Easement Oversight Commission is of the opinion that the Executive Director of the Department of Revenue, should, **accept** the tax credit associated with the appraisal.
- In connection with C.R.S. Section 12-61-721(3) and Section 39-22-522(3.5)(a), the Conservation Easement Oversight Commission is of the opinion that the Executive Director of the Department of Revenue, should, **reject** the tax credit associated with the appraisal.


 Martha Cochran
 Chairperson
 Conservation Easement Oversight Commission

- In connection with C.R.S. Section 39-22-522(3.5)(a), the Division of Real Estate is of the opinion that it **appears there may be** material violations of Uniform Standards of Professional Appraisal Practice (USPAP) that could adversely impact the analyses and conclusions stated in the appraisal.
- In connection with C.R.S. Section 39-22-522(3.5)(a), the Division of Real Estate is of the opinion that it **does not appear there are** material violations of Uniform Standards of Professional Appraisal Practice (USPAP) that could adversely impact the analyses and conclusions stated in the appraisal.


 Marcia Waters
 Director
 Colorado Division of Real Estate

1560 Broadway, Suite 925 Denver, Colorado 80202
Fax 303.894.2683 www.dora.state.co.us

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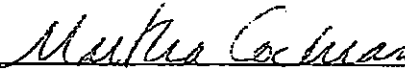
Reference #: 131

Donor: Alan Gentz


Year: 2006

Appraiser: Park

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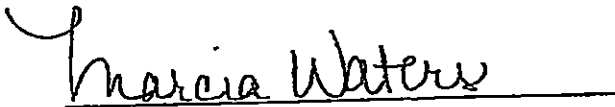
Year: 2007

Appraiser: Stewart

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January 24, 2011

Reference #: 133

Donor: Alan Gentz

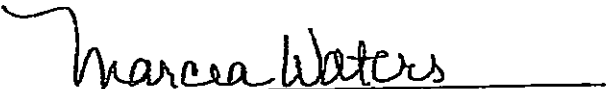
Year: 2007

Appraiser: Kagy

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In connection with C.R.S. Section 39-22-522(3.5)(a), the Division of Real Estate is of the opinion that it appears there may be material violations of Uniform Standards of Professional Appraisal Practice (USPAP) that could adversely impact the analyses and conclusions stated in the appraisal.

Conservation Easement Oversight Commission
Chairperson
Martha Cochran

Martha Cochran

In connection with C.R.S. Section 12-61-721(3) and Section 39-22-522(3.5)(a), the Conservation Easement Oversight Commission is of the opinion that the Executive Director of the Department of Revenue, should, reject the tax credit associated with the appraisal.

In connection with C.R.S. Section 12-61-721(3) and Section 39-22-522(3.5)(a), the Conservation Easement Oversight Commission is of the opinion that the Executive Director of the Department of Revenue, should, accept the tax credit associated with the appraisal.

Appraiser: Park
Year: 2007
Donor: Alan Gentz
Reference #: 134

January 24, 2011

Barbara J. Kelley
Executive Director

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Governor

Department of Regulatory Agencies
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Division of Real Estate
Director
Marcia Waters

In compliance with C.R.S. section 39-22-522(3.5)(a), It was motioned by Commissioner Weston and seconded by Vice-Chair Whisman that the Commission recommends the Executive Director of the Department of Revenue reject the tax credit associated with the appraisal referenced as #128. Commission-Chair Cochran called for discussion:

Commissioner's Comments: None

Motion unanimously carried.

In compliance with C.R.S. section 39-22-522(3.5)(a), It was motioned by Commissioner West and seconded by Commissioner Lair that the Commission recommends the Executive Director of the Department of Revenue accept the tax credit associated with the appraisal referenced as #129. Commission-Chair Cochran called for discussion:

Commissioner's Comments:

Commissioner West: This is years more recent than the previous one that I commented on. I would applaud Real Estate and Revenue for bringing these in before people are getting into problems so we are not creating more of a backlog as we move forward. It is only fair to call out the problem and thank you for the solution at the same time.

Motion unanimously carried.

In compliance with C.R.S. section 39-22-522(3.5)(a), It was motioned by Commissioner Weston and seconded by Vice-Chair Whisman that the Commission recommends the Executive Director of the Department of Revenue reject the tax credit associated with the appraisal referenced as #130. Commission-Chair Cochran called for discussion:

Commissioner's Comments: None

Motion unanimously carried.

In compliance with C.R.S. section 39-22-522(3.5)(a), It was motioned by Commissioner Winner and seconded by Commissioner Lair that the Commission recommends the Executive Director of the Department of Revenue reject the tax credit associated with the appraisal referenced as #131. Commission-Chair Cochran called for discussion:

Commissioner's Comments: None

Motion unanimously carried.

In compliance with C.R.S. section 39-22-522(3.5)(a), It was motioned by Commissioner Winner and seconded by Commissioner West that the Commission recommends the Executive Director of the Department of Revenue reject the tax credit associated with the appraisal referenced as #132. Commission-Chair Cochran called for discussion:

Commissioner's Comments: None

Motion unanimously carried.

In compliance with C.R.S. section 39-22-522(3.5)(a), It was motioned by Commissioner Weston and seconded by Vice-Chair Whisman that the Commission recommends the Executive Director of the

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Department of Revenue reject the tax credit associated with the appraisal referenced as #133.
Commission-Chair Cochran called for discussion:
Commissioner's Comments: None
Motion unanimously carried.

in compliance with C.R.S. section 39-22-522(3.5)(a), it was motioned by Commissioner West and
seconded by Commissioner West that the Commission recommends the Executive Director of the
Department of Revenue reject the tax credit associated with the appraisal referenced as #137.
Commission-Chair Cochran called for discussion:
Commissioner's Comments: None
Motion unanimously carried.

Commissioner West: Pointed out the age of these transactions.
Motion unanimously carried.

in compliance with C.R.S. section 39-22-522(3.5)(a), it was motioned by Commissioner West and
seconded by Commissioner West that the Commission recommends the Executive Director of the
Department of Revenue reject the tax credit associated with the appraisal referenced as #136.
Commission-Chair Cochran called for discussion:
Commissioner's Comments:
Motion unanimously carried.

in compliance with C.R.S. section 39-22-522(3.5)(a), it was motioned by Commissioner Winner and
seconded by Commissioner Lair that the Commission recommends the Executive Director of the
Department of Revenue reject the tax credit associated with the appraisal referenced as #135.
Commission-Chair Cochran called for discussion:
Commissioner's Comments: None
Motion unanimously carried.

in compliance with C.R.S. section 39-22-522(3.5)(a), it was motioned by Commissioner West and
seconded by Commissioner West that the Commission recommends the Executive Director of the
Department of Revenue reject the tax credit associated with the appraisal referenced as #134.
Commission-Chair Cochran called for discussion:
Commissioner's Comments: None
Motion unanimously carried.

Department of Revenue reject the tax credit associated with the appraisal referenced as #133.

MINUTES
CONSERVATION EASEMENT OVERSIGHT COMMISSION MEETING
January 24, 2011
Colorado Division of Real Estate
1560 Broadway, Suite 1250 C
Denver, CO 80202

A Conservation Easement Oversight Commission public meeting was held on January 24, 2011. The commissioners in attendance were; Cindy Lair, representing the Colorado Department of Agriculture; Martha Cochran, representing a local land trust; Chris West, representing a statewide land trust; R. Jay Winner, representing a local government land conservation agency; Janis Whisman, representing a historic preservation organization with experience in easements on properties of historical significance; Lise Aangeenbrug, representing Great Outdoors Colorado; and Doug Robotham, representing the Colorado Department of Natural Resources, Mark Weston, representing certified general appraisers; and Max Vezzani, representing landowners who have donated a conservation easement.

Also in attendance were Marcia Waters, Director of the Division of Real Estate; Cary Whitaker, Deputy Director of the Division of Real Estate; Hollis Glenn, Conservation Easement Program Manager; Harold Ovsowitz, Compliance Investigator and Jordan Beezley, Compliance Investigator for the Division of Real Estate; Lisa Brenner Freimann, Assistant Attorney General; Stacy Chapman, Assistant Attorney General; Ted Wiatr, from the Conservation Easement Section of the Department of Revenue; and other staff and legal counsel for the Department of Revenue. The meeting was open to the public.

Full and timely notice of the meeting was given to the public and the meeting was held pursuant to the Colorado Sunshine Law, Title 24, Article 6, C.R.S., as amended.

Call to order, determination of a quorum:

The meeting was called to order by Vice-Chair Whisman at 10:15 AM and a quorum was determined. Commissioner Cochran was absent.

Public comment:

Ted Wiatr from the Conservation Easement Section of the Department of Revenue thanked the Commission for scheduling extra meetings to consult with the Department of Revenue. He stated that the appraisal is just one part of the conservation easement transaction and that the Department may look at other issues. He also emphasized that the Department not only has to deal with conservation values but also with specific dollar amounts.

No one else from the public made a comment.

Approval of minutes:

It was motioned by Commissioner West and seconded by Commissioner Aangeenbrug to approve the minutes as amended for the Commission Meetings held on December 6, 2010 and December 7, 2010.

Commissioner Weston abstained.

Motion unanimously carried.