

# **Landowners United Advocacy Foundation, Inc.**

*15465 County Lane 1 Olney Springs, CO 81062*

*Ph: 719-263-5449 email: landownersunited@gmail.com*

May 21, 2019

Dear LUAF Members and Supporters:

We want to thank all of you for your support and trust in these trying times and we look forward to carrying the load with your continued support and prayers.

As you may already know, quite a few things have happened since we last updated you on our lawsuit against the State. We survived several Motions to Dismiss filed by the State Attorney General. Then in 2018, the legislature passed CO HB 18-1291 at the last minute of the session. HB-1291 was intended to make any one adversely affected by disallowed conservation easement tax credits “whole” ..... whatever that means. HB-1291 also called for a working group to meet and submit a report including any recommendations for legislation or rule-making to address the issues addressed with the Conservation Easement process pursuant to subsection 3.8 of HB-1291. The enigma was that Conservation Easement donors/landowners were not invited nor included in that working group. As a result, State Senator Jerry Sonnenberg called for another working group which included CE donors/landowners as well as the other groups which previously had representation. These working group meetings did not produce the needed results by December 1, 2018 as put forth in HB-1291. As time has progressed, HB-1291 has turned out to be a sham and has resulted in the legislature introducing CO HB 19-1264 this year to attempt another “fix” for the Conservation Easement debacle. HB-1264 had achieved approximately 50% progression due to amendments from various factions when the 2019 spring legislative session ended. Because of the direction this legislation is now taking, we feel that HB-1264 will be yet another sham.

A meeting was held on February 8<sup>th</sup> of this year in Limon with the land trust umbrella organization originally CCLT - Colorado Coalition of Land Trusts which is now KIC - Keep It Colorado in an attempt to improve relations between LUAF and KIC in hopes of eventual mediation with the State of Colorado. This meeting was attended by several board members and attorneys representing KIC and LUAF along with other guests including Colorado State Representative Kimmi Lewis, a CE information gatherer/specialist from SE Colorado, and a CE donor from the Western Slope whose tax credits had recently been disallowed. As you will see in the timeline below, a few days after the February 8th meeting in Limon, the Federal District Court dismissed our lawsuit on the premise that it was no longer necessary due to HB-1291.

Dori Richards, our attorney with WARBA, has left the law firm. We are now being represented by Blair Dunn, the proprietor of WARBA. He has agreed to appeal our case to the Federal Court of Appeals and is prepared to submit those documents the fifth of June. Our case is a strong case and was only dismissed on the premise that legislation would cure the pain we are suffering. Blair has estimated the cost of the appeal to be about \$20,000. We think this is money well spent and are coming to you, our members and supporters, for the help to continue this endeavor.

Additionally, Keep It Colorado is trying to arrange a mediation session with the State of Colorado and LUAF. If that proceeds it will most likely be as expensive as going on with the lawsuit. By moving forward with the LUAF appeal as well, we feel it will give KIC and the State incentive for a more meaningful mediation. A donation of \$275 would give us a sound bank account for the appeal.

We now have a web page: <https://luaf.net> This site is well maintained and has various news articles, videos, and pertinent information you might find interesting.

If you want to chat with me, please call 719-263-5449. I may not personally be able to answer all your questions but will do my best to get those answers.

Respectfully yours,

J.D. Wright  
President

**FYI - Following is a short recap of LUAF's Lawsuit: Case No: 1:16-CV-00603-PAB-CBS:  
LUAF Lawsuit  
Case No: 1:16-CV-00603-PAB-CBS**

**3/14/16** - Filed in Federal District Court a Complaint for Injunctive Relief, Declaratory Relief for Violations of Civil Rights and State Constitutional Rights

**3/17/16** - LUAF filed first Amended Complaint

**5/16/16** - State filed Defendant's Motion to Dismiss Complaint

**6/10/16** - LUAF filed a Second Amended Complaint for Injunctive Relief, Declaratory Relief for Violations of Civil Rights and State Constitutional Rights

**6/23/16** - State filed Defendant's Motion to Dismiss Second Amended Complaint

**8/10/16** - LUAF filed Plaintiff's Response to Defendant's Motion to Dismiss Second Amended Complaint

**9/6/16** - State filed a Reply in Support of Defendant's Motion to Dismiss Second Amended Complaint

**3/17/17** - Judge granted the Defendant's motion to Dismiss Second Amended Complaint  
Judge ordered that Plaintiff claims are dismissed without prejudice  
Judge ordered that Plaintiff may file a motion to amend a complaint in 21 days from this date

**3/12/18** - LUAF filed Third Amended Complaint

**9/28/18** - A group of State Officials filed a Notice of Supplemental Authority in Support of Motion to Dismiss

**3/12/19** - Judge Dismissed LUAF's case on the fact that HB18-1291 would bring relief

**4/26/19** - LUAF filed a Notice of Intent to Appeal Judge's Decision

**6/5/19** - LUAF's Date to file Appeal of Judge's Decision