

# THE ASPEN TIMES

## Land trust: Preservation efforts could hit more snags

Senate committee to study conservation law

**By Scott Condon**

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In the ongoing battle to prevent condos from replacing cows on land all over the West, the condos could be gaining another advantage this year.

The U.S. Senate Finance Committee will put land conservation tax laws under the microscope starting Wednesday. In the worst-case scenario, it could eliminate a compelling incentive that some ranchers, farmers and other landowners have to preserve their open space rather than sell it to developers.

Critics of current tax deduction regulations contend that the federal government is losing millions of dollars due to questionable or downright dishonest conservation efforts - like developers claiming deductions for preserving some of their land as a golf course and reducing the number of houses they build.

Some calls for reform would eliminate tax deductions for conservation easements altogether. Other proposals include removing the deduction for a conservation easement when the donor lives on the land. That scenario would be disastrous in the West by making it impossible for ranchers or farmers to preserve parts of their spreads.

The Senate committee hearing will be followed closely by the Aspen Valley Land Trust, the oldest preservation organization of its type in Colorado. AVLT received conservation easements on 2,000 acres between Aspen and Rifle in 2004 alone. It's helped preserve about 11,000 acres since it was created in 1967.

AVLT Director Martha Cochran said eliminating a federal tax deduction for landowners who place conservation easements on their property would have a large impact on the organization, but "it wouldn't be a fatal change. Not all of our deals have tax benefits."

The trust has focused recently on working with ranchers and farmers to preserve land. To take that step, a rancher extinguishes the development rights on a specific amount of acreage. For example, the family might place a conservation easement on 70 acres where, under Colorado law, two McMansions could be built.

An appraisal determines the difference in the value of the land left undeveloped and the value of land with approvals for two homes. The landowner gets to deduct that difference on federal taxes. The conservation easement is given to a land trust such as AVLT.

In addition to federal tax deductions, Colorado has some of the nation's most generous tax laws for conservation easements, according to Shannon Meyer, associate director of AVLT. Colorado allows donors to take tax credits that they can use themselves or sell to others.

That's provided land-rich, cash-poor ranching families with a way to raise money without carving some of their acreage out for development, Meyer said.

Mike and Kit Strang used a conservation easement to preserve part of their Missouri Heights ranch. Aspen Times photo/Mark Fox.



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If federal tax deductions are eliminated but state law stays the same, enough incentive would remain for some conservation deals, Meyer said. But the tax implications clearly have sparked an increase in conservation in recent years, she said.

Colorado started offering the tax credits in 2000. The amount of credit was increased in 2003.

AVLT executed between one and five easements per year between 2000 and 2002. The number jumped to 20 in 2003 and 27 last year. Tax credits or deductions were taken in 23 of the 27 deals last year, according to Meyer.

Mike Strang, a former U.S. congressman from western Colorado, worked with AVLT two years ago on a conservation easement on 84 acres of his family's 453-acre ranch in Missouri Heights. He said his family would have done it regardless of the tax implications because they feel strongly about preserving agricultural lands. Working with a land trust is a great tool, he said.

Strang isn't surprised that Congress feels the need to look into possible reforms to the federal tax deductions for conservation easements. Any time there are tax breaks available, some people will find ways to abuse them, he said.

But the idea of eliminating deductions when a landowner places a conservation easement on property where they live would drastically affect use of the tool by ranchers and farmers, Strang acknowledged. They are using easements specifically to help preserve the land where they live.

"The Northeastern congressmen don't understand that," he said.

Cochran has lobbied some members of Colorado's congressional delegation and found support for preserving tools that help agricultural lands remain undeveloped. In its June newsletter, AVLT is urging its members to contact their elected representatives.

Cochran said some reform in land conservation tax law would be welcomed. For example, bona fide land trusts support efforts to accredit organizations in their field.

"I think a lot of good will come out of this discussion as long as they don't throw the baby out with the bath water," said Cochran.

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