



*"To enhance the quality of life in Boulder County, and protect people's opportunity to own, use, and enjoy their property by promoting environmentally sound, fair and consistent land use decisions."  
- Land Use Coalition Mission Statement*

© The Land Use Coalition  
P.O. BOX 20265 - Boulder, CO 80308  
303-666-7903 - [www.landusecoalition.org](http://www.landusecoalition.org)  
[contactus@landusecoalition.org](mailto:contactus@landusecoalition.org)

# The Land Use Lantern

Newsletter of the Land Use Coalition

February 2006

## President's Column

Greetings LUC Members and Landowners:

With the start of the New Year, the Land Use Coalition is also getting a fresh start! In particular, as of January 1, I am no longer the president of the Land User Coalition. Fortunately, I leave you in very capable hands. Pam McElwain, who has served as the organization's vice president for the past two years, is stepping up to take the reins. Pam is a strong spokesperson for land use rights, and will be an outstanding president. I ask you all to welcome her to the role, and to give her the same dedication and support you have shown me during my various terms spanning more than five years as president.

I also ask that you join me in welcoming Dick Schillawski to his new role as vice president of the LUC. Dick has dedicated countless personal hours to land use issues throughout Boulder County and the state for many years. We are fortunate to have him as a member of our organization and are grateful that he has agreed to take on this new leadership role. Thanks for all of your hard work Dick!

Annual Membership fees are due now - please complete and send in yours today. The LUC still has many important tasks on its plate this year. The County's Land Use Code Revision process continues to be the single most important activity. Dick continues as the head of this critical work. The County has established a plan for addressing the various sections of the code, and I encourage all of you to get educated on the various issues, and to attend the many public hearings that are being held on code sections. **A GOOD SHOWING BY THE LUC IS IMPORTANT!** We need to show that the public is strongly behind fair and just land use policies and actions.

The Eminent Domain issue continues to be a hot property rights topic throughout the nation and right here in Colorado. Legislation has been introduced this session to address this issue. Another land use group has been circulating petitions to get an initiative on the ballot this November. If you're interested in reading the ballot initiative, please come to one of our monthly meetings where individuals will have petitions.

Also critical to this legislative session are two bills that severely impact individual property rights throughout the state: SB06-74 and HB06-1053. We are in need of volunteers to go down to the state legislature to testify against the passage of this legislation. Please read the legislative update section in this newsletter and attend our March 1 meeting for more details.

The LUC hosted a well-attended luncheon on the subject of Eminent Domain in January. Our guest speaker, CU Law Professor Nestor Davidson, gave important perspective about the effects of the Kelo Decision and Eminent Domain. Our thanks go out to Prof. Nestor for hosting this lively discussion and to Ann Mygatt and the luncheon committee for organizing this event. We hope to host another luncheon soon on the current proposed state legislation – stay tuned for more info.

It has been my pleasure being president of this organization, and working with all the outstanding, dedicated folks that make it successful. I will continue to assist Pam and will continue as an active LUC member. I hope to see many of you at our monthly meetings, or at future public events.

*Kevin Probst*

Phone: 303-258-9256, E-mail: [kprobst@mho.net](mailto:kprobst@mho.net)

---

## UPDATE ON COUNTY CODE REVISION PROCESS

---

The County's Code revision process is rolling along. Our code committee, headed up by Dick Schillawski, continues to meet on a weekly basis to discuss the code revision issues and draft suggested changes. The current process seems to be that several informal public meetings, which are conducted by the Land Use Department where individuals can speak freely in an open forum, are held on a designated code revision topic. From there, the Land Use Department staff writes their recommended revisions to be presented to the Planning Commission and later before the Board of Commissioners.

Although there's no guarantee that this process isn't going to be as circuitous as it has been in the past, it certainly seems to have a different face. We remain cautiously optimistic that some good can come from this process if we can continue to provide input. We strongly encourage you to attend hearings whenever possible.

The Land Use Dept. is averaging two to three of these meetings per month and so far we have not put forth a very good showing. The code revision process calendar is updated frequently on the County's website: <http://www.co.boulder.co.us/lu/code/input.htm>

If you have questions about the code revision process, please contact Code Committee Chair Dick Schillawski at [rschillawski@earthlink.net](mailto:rschillawski@earthlink.net) or 303-664-0156.

### **MARCH CODE REVISION PUBLIC MEETINGS:**

**Thursday, March 16th at 5:30 PM -  
Topic: Green Building**

**Tuesday, March 21st at 5:30 PM -  
Topic: Site Plan Review**

*Meetings are held in the Commissioners Hearing Room located on the 3rd floor of the County Courthouse*

## MERGER UPDATE - BCPC HEARING ON WED. MARCH 15

Mergers are the first issue to be addressed by the County's Code revision process. After conducting two public meetings on the issue, the Land Use Department is in the process of drafting code revision changes to be presented to the Boulder County Planning Commission on Wednesday, March 15. After this hearing, it is presumed that the text changes will be go before the Board of Commissioners some time in April.

The Land Use Department staff has recommended that the mountain mergers and subdivision mergers be rescinded. As a result, it is presumed that the County's recent "Administrative Parcel Division" process (which only addressed mountain mergers) will also be eliminated. Although this process is by no means a guarantee, we are cautiously optimistic that this might finally be the end to a 12-year injustice. LUC members have dedicated many hours to fighting this issue and it would certainly be something to see this corrected. **If you have a mountain or subdivision merger, you need to send a letter AND attend to lend your vocal support of the Land Use Department's decision to rescind these policies at the March 15 BCPC hearing and subsequent BOCC hearing.**

Unfortunately, despite our efforts, the Land Use Department is not recommending that the single deed mergers policy be rescinded. Boulder County's single deed merger policy affects adjacent parcels whose ownership was conveyed and recorded on the same deed.

**If you are affected by the single deed merger policy, it is imperative that you send a letter AND testify at the March 15 BCPC hearing and subsequent BOCC hearing.**

We will continue to advocate that the single deed merger policy be rescinded both at upcoming hearings and behind the scenes. We are in the process of hiring a law student to research the history and feasibility of the County's single deed merger policy. Hopefully this research will provide important information for our organization and its members that will be of use should someone chose to pursue a class action or individual suit.

**ALL MEMBERS: WE NEED YOUR SUPPORT!  
PLEASE MARK YOUR CALENDARS &  
ATTEND THE BCPC & BOCC HEARINGS  
IF YOU CAN'T MAKE IT, PLEASE SEND A LETTER**

### **BCPC MEETING ON WED. MARCH 15**

**TIME: 1:30 PM** (check our website or call the County at 303-441-3930 to confirm this time)

**LOCATION: Commissioners Hearing Room**  
(located on the 3rd floor of the County Courthouse)

**DOCKET #: DC-05-002a**

*For more information, please contact Pam McElwain at [pam.mcelwain@comcast.net](mailto:pam.mcelwain@comcast.net) or 970-278-0214.*

# COLORADO STATE PROPOSED LEGISLATION

The Land Use Coalition is tracking land use related bills in the State Legislature during the 2006 General Assembly Session. The hot topic this year is understandably eminent domain, due to the reverberations of the Kelo decision by the Supreme Court. Unfortunately, of the six bills related to eminent domain, only two have passed the Senate and moved to the House where they still await action. The House bills have all been laid over. The eminent domain bills you can follow include:

- HB1096 - Limitations on Eminent Domain Powers
- HB1099 - Limiting Eminent Domain Powers
- HB1208 - Fair Market Compensation for Eminent Domain Takings

- SB078 - Limitations on Eminent Domain Powers for Toll Roads
- SB154 - Eminent Domain Clarifications and Cross References
- SB169 - Blight and Urban Renewal

In addition to eminent domain issues, a number of other bills are of interest to Colorado landowners. These include:

- HB1003 - Requirements for Private Toll Roads
- HB1049 - Limitations on Liability for Land Made Available for Public Recreation
- HB1053 - Master Plans and Their Enforceability
- HB1354 - Tax Credits for Conservation Easements

- SB052 - De-Bruceing Taxes for Parks and Open Space
- SB053 - Residential Lot Size for County Weed Removal
- SB075 - Penalties for Luring Wildlife to Your Urban Land

SB074 - Penalties, Timelines, and Enforcement for Land Use Code Violations

Of particular concern are HB1053 and SB074. HB1053 makes "master plans" for communities have the force of law, and mandates master planning on communities. This will make plans that are in many cases only rudimentary and insufficient for good land use planning now the law within communities across Colorado. These "master plans" were not drawn up to serve as land use law, and in many cases are so incomplete and uncoordinated with local zoning and other requirements that the bill would create a legal nightmare for small towns and rural counties.

SB074 is an attempt to turn local land use officials into "land use police". It empowers land use officials to serve summons on landowners, and dramatically reduces the time frame that landowners have to cure land use code violations. It also dramatically increases the monetary penalties for violations of land use codes provisions.

The LUC would encourage members to contact their Representatives and Senators to express your concern with these two measures, and to encourage them to deal expeditiously with the issue of Eminent Domain.

The LUC would also like to encourage members to participate in upcoming hearings on these bills. We anticipate organizing groups to testify at committee hearings in the near future.

Remember, if you, as landowners, don't defend your property rights, the State Legislature may very well steal your rights as they have in the past!

## LUC CALENDAR

- LUC March Meeting - Sol Azteca - 5:30 . . . March 1
- Planning Comm. Hearing on Mergers . . . . . March 15
- Public Code Meeting on Green Building . . . . . March 16
- Public Code Meeting on Site Plan Review . . . . . March 21
- LUC April Meeting @ ? . . . . . April 5

**PLEASE NOTE: Our monthly meeting location has changed.** We can no longer use the meeting room at Boulder Beer. For the March meeting, we will be trying out the Sol Azteca Restaurant (formerly Coco's) located in the Albertson's shopping plaza at the southeast corner of 28th St. & Iris in Boulder. If this location doesn't work out, we will try somewhere different for the April meeting. We will post the April meeting location on our website and on our main voicemail message. Our monthly meetings are held the first Wednesday of each month at 5:30.

## LAND USE COALITION OFFICERS

- President: Pam McElwain
- Vice President: Dick Schillawski
- Secretary: Betty Gibbs
- Treasurer: Jeanne White

## BOARD OF DIRECTORS

- Karl Anuta, Dirk Arnold, AJ Chamberlin, Jim Hester, Ann Mygatt, Kevin Probst, Dick Schillawski, Barbara Taylor, Jo Wiedemann, Jeanne White

## COMMITTEES

- Boulder County Land Use Code Revision Committee - Dick Schillawski (303-664-0156)
- Legislative Committee - Kevin Probst (303-258-9256)
- Luncheon Committee - Jo Wiedemann (303-447-2569)
- Merger Committee - Pam McElwain (970-278-0214)
- Newsletter Committee - Ann Mygatt (303-449-8007)
- RS2477 Roads Committee - AJ Chamberlin (303-441-5682)



PO Box 20265  
Boulder, CO 80308

**NEW LOCATION  
FOR MARCH 1 MEETING:  
SOL AZTECA RESTAURANT  
(SE CORNER OF 28TH & IRIS)**

In order to continue receiving LUC newsletters and updates, please complete and return the membership renewal form below, along with your membership dues. We want our members to know that all of our staff is strictly volunteer with no paid positions whatsoever. Many of us work tirelessly on all issues that concern property rights in Boulder County. Please help us continue our efforts to educate the public about land use issues that affect us all by making a contribution to the LUC. Your prompt payment of renewal fees/donations is greatly appreciated!

### LUC MEMBERSHIP DUES & DONATIONS

Enclosed is my \$25 LUC 2006 membership fee     I am making an extra donation of \$ \_\_\_\_\_

Please send me a bumper sticker:     Respect Prop. Rights     Take Politics out of Prop. Rights

Name \_\_\_\_\_

Address \_\_\_\_\_

City/State/Zip \_\_\_\_\_

Phone \_\_\_\_\_ E-mail \_\_\_\_\_

We do not share our donors list, mailing list or e-mail list with anyone. If you give us your e-mail address, you will receive the newsletter and current actions and announcements online.

Many Thanks for your generous donation!

Please mail this completed form along with your check made payable to:

The Land Use Coalition - PO BOX 20265 - Boulder, CO 80308

Phone: 303-666-7903 - E-mail: [contactus@landusecoalition.org](mailto:contactus@landusecoalition.org) - Website: [www.landusecoalition.org](http://www.landusecoalition.org)