

STATE OF COLORADO OFFICE OF ADMINISTRATIVE COURTS 633 17 TH Street, Suite 1300 Denver, Colorado 80202	RECEIVED JUN 01 2007 OFFICE OF ADMINISTRATIVE COURTS ▲ COURT USE ONLY ▲
Colorado Board of Real Estate Appraisers, Petitioner, vs. Julie M. O’Gorman, C.G. 40012732, Respondent.	
ORDER OF SUMMARY SUSPENSION, NOTICE OF DUTY TO ANSWER, NOTICE TO SET AN INFORMAL PRE-HEARING CONFERENCE, NOTICE OF HEARING, NOTICE OF CHARGES AND NOTICE OF OPTION TO ENGAGE IN ALTERNATIVE DISPUTE RESOLUTION IN THE MATTER OF DISCIPLINARY ACTION AGAINST THE CERTIFIED GENERAL APPRAISER’S LICENSE OF JULIE M. O’GORMAN, LICENSE # CG 40012732	

TO: Ms. Julie O’Gorman
 c/o Daniel Foster, Esq.
 621 17th St., 19th Floor
 Denver, CO 80293

and

Julie M. O’Gorman
 1215 N. Cleveland Ave.
 Loveland, CO 80537

ORDER OF SUMMARY SUSPENSION

The Colorado State Board of Real Estate Appraisers (the “Board”), having conducted an investigation as to the matters referenced below, HEREBY FINDS:

1. At all times relevant hereto, Julie M. O’Gorman (“Respondent”) was licensed by the Board as a Certified General Appraiser. Her license number is CG 4002717232.

2. The Board possesses jurisdiction over Respondent, Respondent's real estate appraiser's license, and the subject matter of this proceeding pursuant to Title 12, Article 61, Part 7, C.R.S.
3. Reasonable grounds exist to believe, and the Board so finds, that the public health, safety, or welfare imperatively requires emergency action as a result of Respondent's conduct. The grounds are more fully set forth in the Notice of Charges attached hereto and are incorporated herein by reference.
4. Based on the information contained in the attached Notice of Charges, reasonable grounds exist to believe, and the Board so finds, the public health, safety, or welfare imperatively requires emergency action as a result of Respondent's conduct, and she is therefore summarily suspended pursuant to § 24-4-104(4), C.R.S.

THEREFORE, IT IS HEREBY ORDERED that the license of Julie M. O'Gorman, to practice real estate appraisal, be, and hereby is, summarily suspended until such time as the accompanying complaint against Respondent has been resolved.

Pending the outcome of said proceedings, IT IS FURTHER ORDERED that Julie M. O'Gorman immediately cease, desist and refrain from any further acts for which a license to appraise real estate is required by the laws of the State of Colorado and that her license card be immediately submitted to the Board pending the outcome of this proceeding.

DATED this 31st day of May 2007.



Erin Toll, Director

Colorado Division of Real Estate

On behalf of the Colorado Board of Real Estate Appraisers

NOTICE TO SET AN INFORMAL PRE-HEARING CONFERENCE

YOU ARE HEREBY NOTIFIED that the undersigned attorney for the Colorado State Board of Real Estate Appraisers (the "Board"), or a representative, will appear at **9:00 a.m. on June 8, 2007**, in the Office of the Chief Administrative Law Judge, Office of Administrative Courts, 633 Seventeenth Street, Suite 1300, Denver, Colorado, 80202, in order to set a date and obtain a location for a pre-hearing conference regarding the following Notice of Charges. At the pre-hearing conference, the parties will obtain a hearing date, arrange an expedited discovery schedule, and obtain motion dates as necessary. You may be present in person or by counsel, or you may make prior arrangements to be reached by telephone at the time and date specified above by contacting the Office of Administrative Courts at 303.866.2000 prior to the day of setting.

NOTICE OF HEARING

YOU ARE HEREBY NOTIFIED that, pursuant to C.R.S. §§ 12-61-710(3), (4) and (6), and §§ 24-4-104 and 105, a hearing will be held before an authorized administrative law judge at a time and location to be determined pursuant to the above Notice to Set for the purpose of determining whether discipline should be imposed against the real estate appraiser's license of Julie M. O'Gorman C.R.S. §§ 12-61-710(1)(b) and (g); Board Rule 11.1; Standards Rules 1-1(a), and (b), 1-4(a), and 2-1(a), (b) and (c), *USPAP* (2006) and the "Ethics Rule."

YOU ARE FURTHER HEREBY NOTIFIED that at the hearing in this matter you shall have the right to appear in person and/or by legal counsel; to present evidence in your own behalf; to cross-examine any witnesses presented by the Board; and to rebut any evidence presented by the Board. You may also have subpoenas issued on your behalf upon request to the administrative law judge assigned to this matter.

NOTICE OF CHARGES

The Board charges and alleges as follows:

General Jurisdictional Allegations

1. At all times relevant hereto, Julie M. O'Gorman ("Respondent") was licensed by the Board as a Certified General Appraiser. Her license number is CG 40012732.
2. The Board possesses jurisdiction over Respondent, Respondent's real estate appraiser's license, and the subject matter of this proceeding pursuant to Title 12, Article 61, Part 7, C.R.S.

General Factual Allegations

3. The Board re-alleges paragraphs 1 and 2 above as though fully set forth herein.
4. On or about August 22, 2006, Respondent appraised a property situated at Tract 10, Los Leones Ranches, Walsenburg, Huerfano County, Colorado, for a conservation easement. Respondent identified the client as Roger and Suzanne Walker. The opinion of value of the conservation easement was \$670,000.00. The stated purpose of the report was “to form an opinion of the ‘market value’ for the subject property in it’s [sic] ‘as is’ and ‘as proposed’ state and subsequently establish the value of the proposed conservation easement.”

Count I

(Regarding a self-contained appraisal of a conservation easement for property identified as Tract 10 of Los Leones Subdivision, TBD Ideal Road, Huerfano County, Walsenburg, Colorado.)

5. The Board re-alleges paragraphs 1 through 4 above as though fully set forth herein.
6. Respondent’s report relies upon an annexation of the described property to the Town of Walsenburg, but Respondent fails to include in her report:
 - a. Discussions with any planners to suggest or support the contention that an annexation is possible; or
 - b. References to the City of Walsenburg’s Master Plan to show that the City had any intention or desire to annex this piece of property.
7. Respondent fails to address the fact that an annexation on this property had been denied prior to 2004, including failing to address correspondence from the City of Walsenburg in which the City made it clear that the annexation discussions were done.
8. Respondent fails to provide any level of discussion to address how or why the City of Walsenburg, after initially denying the annexation, would have any level of renewed interest in the annexation.
9. Respondent fails to define what is Los Leones Ranches sub-division or how “Tract 10” fits into the entire sub-division in that:
 - a. Los Leones Ranches sub-division is comprised of many additional acres of agricultural land;

- b. Annexation of the Los Leones Ranches sub-division into the City of Walsenburg had been previously denied;
 - c. The same and similar parties had previously attempted to annex this sub-division for the creation of residential home sites;
 - d. "Tract 10" is 35 acres of land situated in the middle of hundreds of acres of land, which area developers had previously attempted and failed to develop for a much larger site. Respondent provides no analysis or discussion of how or why the City would want to annex 35 acres of land when it previously denied annexing the much larger acreage.
10. Respondent completely and mis-leadingly omits any and all discussion of the history of Los Leones Ranches sub-division, the relationship between Los Leones Ranches sub-division and Tract 10, any discussion of how the supporting documents within her appraisal report, documents intended for the developers of Los Leones Ranches, could or would or did relate to the development of Tract 10.
11. Respondent states, "Currently, electricity, gas, sewer and telephone are located near the eastern boundary of the site along Ideal Road, but fails to:
- a. Draw attention to a November 25, 1996, letter addressed to Mr. or Mrs. Stanley Mann (business partners of the current owners) from the San Isabel Electric Association, Inc., which describes the electric association's desire to obtain a right-of-way easement to the described property to provide electricity to a neighboring prison. The letter additionally states, ". . . if at some later date you require service along or near your North property line you possibly would be served off of this line. The capacity of this line would be such that it could serve **small commercial or small industry.**" Respondent fails to provide any analysis or discussion of the contents of this letter, including whether this amount of electricity could support the proposed sub-division, how the association would react to a proposed sub-division's tying into the electrical line at that point, or what costs might be associated with such an endeavor. Additionally, Respondent fails to provide a signed copy of this easement to provide any level of support that the association did, in fact, receive its easement in this particular location.
 - b. Address that the "Water and Sewer Service Agreement" is for "Los Leones Subdivision Filing No. 2," an application for water for 41 residential home sites and identified within the "Agreement" as described on "Exhibit A." Respondent fails to identify what is "Filing No. 2"; why there are 41 residential home sites described, as opposed to the 33 residential lots described in the body of the appraisal report; or where Exhibit A, with its legal definition of the property, to the "Agreement" is. As noted above, this "Service Agreement," signed in 2005,

was created after the City's initial decision not to annex the property for the larger property for Los Leones Ranches sub-division. Respondent provides not one word to reconcile the apparent change.

- c. Respondent provides no documentary evidence to support her contention that gas and telephone are available to this property.
12. To support her "Assessed Valuation and Taxes," Respondent relies upon a report, "Revision to the Impact Report and Benefit/Cost Analysis: Proposed Annexation of Los Leones Development to the City of Walsenburg." This report was created in 1997. Respondent provides no analysis regarding the pronounced economic differences between 1997 and 2006, including, but not limited to: trends in real estate development in rural communities; the significant water issues that have affected the entire State of Colorado in the most recent years; or economic changes, in general, to all portions of the state due to a post-9/11 world.
13. Respondent states in her cover letter that the market value is to be completed according to the "preliminary plans and specifications supplied by Rodney Atherton." Respondent fails to identify who Rodney Atherton is or where these plans and specifications are.
14. Respondent states that Mr. Atherton's plans include "annexation into the City of Walsenburg and a zoning change from AG-Agricultural to UR/Urbanizing Residential District." Again, Respondent fails to include any materials to support either of these contentions or evidence to inform the reader how the City changed its thinking between the initial denial to annex and the alleged recent decision to annex.
15. Respondent's Highest and Best Use analysis mis-leadingly, mistakenly and inappropriately hinges upon the previously alleged mis-statements, mis-applications, and failures to disclose and analyze. This Highest and Best Use analysis lays the groundwork for development of the final value of a conservation easement.
16. To arrive at the Estimated Infrastructure Development Costs, Respondent relies upon a report created in December 2005, addressed to Stanley K. Mann, from an unidentified and unknown Richard McCabe, President. Nowhere in the report is there reference to development of Tract 10 of the Los Leones Ranches sub-division.
17. Respondent provides no explanation, discussion or analysis of how this unsigned document from this unknown party substantiates the development costs associated with Tract 10 of the Los Leones Ranch sub-division.
18. The described letter is replete with references to unidentified tracts, references to 1,036 residences on 1,000 acres, and a host of other inconsistent data that suggest that this report was created for a much larger development, one that would have borne the costs of

development over a much larger number of residences. Respondent provides no disclosure or analysis of cost difference between developing 1,036 residence and developing only 33 residences, no economic analysis of the cost differences, and absolutely no discussion of whether development of 36 lots, instead of 1,036, is even feasible as initially discussed in regard to the larger development.

19. Respondent fails to include discussion of this development cost difference and whether this cost difference would affect the alleged “sufficient demand” to support the project.
20. Respondent’s Direct Sales Comparison Approach compares 33 undeveloped home sites with sites being developed for sale in an area known as Black Diamond Park. Respondent fails to disclose or analyze that:
 - a. 62 percent of the lots in Black Diamond Park border open space areas, park spaces or open water;
 - b. Black Diamond Park sits next to Lathrop State Park’s two lakes (which lakes enjoy fishing, wind-surfing, boating and swimming) and Walsenburg’s updated golf course;
 - c. Black Diamond Park is located on Highway 160, part of the *Highway of Legends*, and which connects directly to I-25. In contrast, the appraised property is accessed by a county-maintained, two-lane gravel road.
21. Respondent, however, notes that there is an appeal difference between the appraised property and Black Diamond Park. That appeal difference, the only appeal difference, according to Respondent, is that a railroad “tract” [sic] is located within close proximity to the appraised property. Again, Respondent fails to disclose or analyze the appeal difference of accessing the site by gravel road over scenic highway; having access to water sports; or having access to a golf course.
22. Respondent uses one comparable sale of a conservation easement. This comparable sale is located in Larimer County in Wellington, Colorado. Respondent fails to provide any analysis of how or why this comparable sale provides any level of accurate comparison to the subject property.
23. Respondent mistakenly develops the value of the conservation easement without developing the value of the land with the easement on it. That is to say, Respondent fails to analyze what the value of the appraised property at its highest and best use would be if the proposed easement were placed on it. This side-steps the entire second half of the “after” portion of the “Before-and-After Easement Sales Method” as described in Respondent’s introduction and as accepted as the better method by which an appraiser is to value land for the purposes of a conservation easement.

24. Instead, Respondent mistakenly relies upon the de-valuation ratio that she derived from the Larimer County sales comparable. There is, again, no analysis at all to support this leap in the process. Respondent has failed to follow the recognized and accepted standards for creating a conservation easement by failing to value the subject property at its highest and best use with the proposed easement in place.
25. Respondent, relying upon the entirety of her mis-representations, failures to disclose and analyze, mis-statements of fact, omissions, and other errors arrives at a value for the proposed conservation easement of \$670,000.00. This conservation easement has these potential, highly damaging effects if actually recorded:
 - a. The full amount may be claimed on a federal tax return as a charitable contribution, thereby harming the U.S. Federal Treasury and United States tax payers;
 - b. This amount may be used to create a transferable Colorado conservation easement income tax credit in the amount of \$260,000.00, which credit may be sold to one or more other Colorado taxpayers who are seeking tax credits, thereby harming Colorado tax payers; and
 - c. The landowner himself/herself could be faced with substantial federal and state claims for unpaid taxes.
26. Respondent's appraisal and appraisal report for the subject property do not employ the recognized methods and techniques that are necessary to produce a credible report and do not meet the generally accepted standards of professional appraisal practice and are in violation of *Uniform Standards of Professional Appraisal Practice* (2006), 1-1(a), and (b), 1-4(a), and 2-1(a), (b) and (c), *USPAP* (2006).
27. Respondent's conduct as alleged in this Court I violates COLO. REV. STAT. §§ 12-61-710(1)(b) and (g) and Board Rule 11.1, which violations constitute grounds for the suspension or revocation of Respondent's real estate appraiser license and imposition of a civil penalty against her pursuant to COLO. REV. STAT. § 12-61-710(6)(a), of not less than \$300.00 and no more than \$500.00 for each violation.

Aggravating Factors

1. The Colorado Board of Real Estate Appraisers is currently seeking revocation of Respondent's license in this Court, alleging that Respondent has created mis-leading appraisal reports for two sub-divisions, at least one commercial property and a number of residential properties. The Board may seek to amend this Notice of Charges to combine

those previously filed as *Colorado Board of Real Estate Appraisers v. Julie O'Gorman*, OAC Case Number APR 2006-0010 with this current Notice of Charges.

WHEREFORE, based on the allegation set forth above, the Board respectfully requests that the administrative law judge enter an initial decision for the following relief:

- a) Respondent's appraisal license be revoked;
- b) A civil penalty of not less than \$500.00 per offense; and
- c) Such other relief as the administrative law judge deems just and proper.

DATED this 31st day of May 2007

JOHN W. SUTHERS
Attorney General



BILLY L. SEIBER, 34380*

Attorney for Colorado Board of Real Estate
Appraisers
Professional Boards Unit
Business & Licensing Section

1525 Sherman Street, 5th Floor
Denver, Colorado 80203
Telephone: 303.866.5286
*Counsel of Record

CERTIFICATE OF SERVICE

This is to certify that I have duly served the within **ORDER OF SUMMARY SUSPENSION, NOTICE OF DUTY TO ANSWER, NOTICE TO SET, NOTICE OF HEARING, NOTICE OF CHARGES and NOTICE OF OPTION TO ENGAGE IN ALTERNATIVE DISPUTE RESOLUTION** upon all parties herein by depositing copies of same in the United States mail, first-class, postage prepaid, at Denver, Colorado, this 1st day of June 2007, addressed as follows:

Dan Foster, Esq.
621 17th St., 19th Floor
Denver, CO 80293

and

Julie M. O’Gorman
1215 North Cleveland Ave.
Loveland, CO 80537

STATE OF COLORADO OFFICE OF ADMINISTRATIVE COURTS

OPTION TO ENGAGE IN ALTERNATIVE DISPUTE RESOLUTION (MEDIATION)

CASE NAME: Julie M. O’Gorman

CASE NUMBER: APR 2007 ***

This agency disciplinary proceeding will be scheduled for hearing before an administrative law judge of the Office of Administrative Courts ("OAC"). The OAC encourages parties to use alternative methods of dispute resolution and offers to the agency and respondent the opportunity to engage in mediation.

Mediation is a process in which a neutral third party meets with the parties to assist them in reaching a negotiated settlement of the disciplinary proceeding. If the parties are able to reach an agreement in this way, they will control the outcome of the disciplinary case by agreeing to a solution, rather than having a solution imposed upon them by an administrative law judge after a hearing.

In mediation, the mediator facilitates communication between the parties in a private, confidential and informal meeting. If a party has an attorney, the attorney will participate. The mediator has no decision-making authority; no settlement or solution to the disciplinary case will be achieved unless both parties are in agreement. A mediator can often help the parties generate creative options to resolve the disciplinary case, even though those options would not be available if the case proceeded to a hearing before an administrative law judge. Mediators may be able to assist the parties in reaching a settlement even where the parties' prior, unassisted negotiations have failed to result in an agreement.

If both parties agree to mediate this disciplinary case they may notify the Office of Administrative Courts, which will assign an administrative law judge or other qualified mediator to conduct the mediation. A mediator acts in a completely confidential manner and has no contact with the judge to whom the case is assigned for hearing.

The parties should indicate whether they wish to engage in mediation by completing the information on the following page. The respondent should return the completed form to the Office of Administrative Courts, along with the answer to the Notice of Charges or Formal Complaint.

**AGENCY'S ELECTION TO MEDIATE
(CHECK THE APPROPRIATE BOX)**

The agency in the disciplinary proceeding described on the front of this form believes that mediation of this dispute is appropriate and elects to engage in mediation at the Office of Administrative Courts.

The agency in the disciplinary proceeding described on the front of this form chooses not to engage in mediation at this time.

(Signature of Agency Official or
Assistant Attorney General)

(Date)

**RESPONDENT'S ELECTION TO MEDIATE
(CHECK THE APPROPRIATE BOX)**

The respondent named below believes that mediation of this dispute is appropriate and elects to engage in mediation at the Office of Administrative Courts.

The respondent named below chooses not to engage in mediation at this time.

Name of Respondent (Print or Type)

(Signature of Respondent or
Respondent's Attorney)

(Date)

THE RESPONDENT MUST RETURN THIS FORM TO THE OFFICE OF ADMINISTRATIVE COURTS, ALONG WITH THE ANSWER TO THE NOTICE OF CHARGES OR FORMAL COMPLAINT, EVEN IF THE RESPONDENT HAS CHOSEN NOT TO ENGAGE IN MEDIATION. THE ADDRESS OF THE OFFICE OF ADMINISTRATIVE COURTS IS 633 SEVENTEENTH STREET, SUITE 1300, DENVER, COLORADO 80202. A COPY OF THIS FORM AND THE ANSWER OF THE RESPONDENT SHOULD ALSO BE SENT TO THE ATTORNEY GENERAL.