



Analysis of the Park Hill Golf Course Land Conservation Easement: Short Form

(Why Golf Course Operation Is Not Required When
the Conservation Easement Is Preserved)

A conservation easement is an interest in real property that is defined and governed by Colorado statutory law. A conservation easement, by legal definition, imposes limits on the use of land to maintain it, among other things, “predominantly in a natural, scenic or open condition, or for wildlife habitat...or recreational...or other use or condition consistent with the protection of open land, environmental quality or life-sustaining ecological diversity.” While a variety of land uses may be allowed, these “**permitted uses**” must be consistent with this statutory definition and the specific “**conservation purposes**” described in the conservation easement document.

The critical governing language in the Park Hill Golf Course (PHGC) land Conservation Easement that identifies the easement’s conservation purposes is found in paragraph 2 captioned “Grant of Easement” which states, in relevant part, as follows:

Grantor hereby grants, bargains, sells, and conveys to Grantee a perpetual, non-exclusive conservation easement in gross over and upon the Golf Course Land **to maintain the Golf Course Land’s scenic and open condition and to preserve the Golf Course land for recreational use....**

The “**permitted uses**” listed in the Conservation Easement – golf course, tennis courts and ball fields – can be changed, but any new use must be consistent with the “**conservation purposes**” of open space and recreation.

Therefore, if Westside Investment Partners, Inc., or any successor PHGC land property owner, chooses not to continue golf course operations on the PHGC land, it and the City could modify the Conservation Easement’s “**permitted uses**” to allow non-golf operations as long as any new

uses would be consistent with the Conservation Easement's open space and recreational **"conservation purposes."** If any such modification would be inconsistent with the **"conservation purposes,"** a court order would be required, pursuant to the Colorado conservation easement statute.

[This analysis was prepared by the Save Open Space Denver legal team including Penfield W. Tate III (municipal finance attorney) in consultation with retired attorneys Patricia Wells (formerly Denver Water Department general counsel and Denver City Attorney) and Walter W. Garnsey, Jr. (retired civil law litigation attorney).]